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THE WORKING OF DYARCHY IN INDIA

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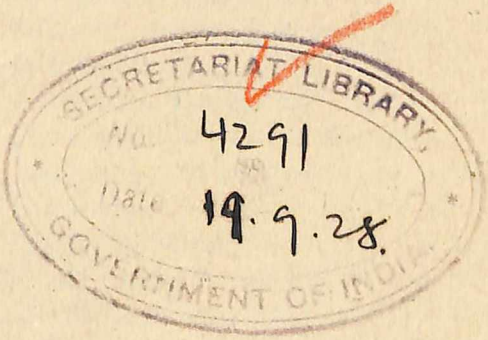
The Working of Dyarchy in India

1919–1928

BY

"KERALA PUTRA"



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INTRODUCTION

THIS work does not purport to do more than study the working of Dyarchy in India. In no sense is it an attempt to formulate a Constitution or to prescribe the course of political evolution. That work is entrusted by Parliament to a Commission of its own members and by the Indian leaders to a Convention which is to meet at any early date. The present writer has neither the equipment nor the desire to usurp their legitimate functions. His object has been solely to analyse the Montagu-Chelmsford Constitution as it was enacted, and to see how far it has been successful, as a first instalment of Responsible Government in India. That was the declared purpose of the Act. The Declaration of August 1917, now incorporated in the preamble of the Act, makes this eminently clear. That, obviously, is the first and fundamental problem that the student of the Dyarchical Government has to answer. Though the Reformed Government showed unexpected signs of strength in many other directions, and proved a source of great political progress, as will be shown in the course of the book, in its main idea, introducing the principle of Responsible Government, it proved an unqualified failure. The main issues that arise out of this question, for which an answer has been sought in this study, are the causes of this failure in its different aspects, relating to the Governor, the Executive, the Ministers and the Legislature.

If, on this fundamental question of Ministerial Responsibility, the failure of the new Constitution is undouted, in

other directions, probably no less important for our ultimate development, its success has been equally undeniable. In the scheme of political education, social legislation, liberalisation of local government, and closer relation between the people and the administration, the work of the Reformed Constitution merits warm approval. The haze of political controversy, arising from the failure of the principle of Ministerial Responsibilily, has obscured the achievements from the eyes of Indian political observers.

The Commission of Enquiry, to examine the working of this Constitution, has now been appointed. Given the limitation of a Commission, consisting solely of Members of Parliament, there is no doubt that its personnel is as impartial and as competent as we can hope to have. By the terms of reference, laid down in the Act itself, the Commission is to enquire " into the working of the system of Government, the growth of education and the development of representative institutions. in British India, and matters connected therewith." The Commission is asked to report " as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable." In announcing the appointment of the Commission His Excellency Lord Irwin justified the procedure adopted—that of appointing a purely Parliamentary Commission to deal with this question—in the following terms :—

" It would be generally agreed that what is required is a Commission which would be unbiassed and competent to present an accurate picture of facts in Parliament, but it must be found willing to take whatever action a study of these facts may indicate to be appropriate.

" To fulfil the first requirement, it would follow that the

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Commission should be such as may approach its task with sympathy and a real desire to assist India to the utmost of its power, but with minds free from preconceived conclusions on either side. It is, however, open to doubt whether a Commission constituted so as to include a substantial proportion of Indian members, and, as rightly would, British official members also, would satisfy the first condition of reaching conclusions unaffected by any process of *a priori* reasoning. On the one hand, it might be felt that the desire, natural and legitimate, of the Indian members to see India a self-governing nation could hardly fail to colour their judgment of her present capacity to sustain the role. On the other hand, there are those who might hold that British official members would be less than human if their judgment were not in some degree affected by long and close contact with the questions to which they would now be invited to apply impartial minds.

"But even after such a Commission had written its report, Parliament would inevitably approach the consideration of it with some element of mental reservation due to an instinctive feeling that the advice in more than one case represented views to which the holder was previously committed. It would move uncertainly among conclusions the exact value of which, owing to unfamiliarity with the minds of their framers, it would feel unable to appraise.

"We should, however, be making a great mistake, if we suppose that these matters are purely constitutional or could be treated merely as the subject of judicial investigation. Indian opinion has a clear title to ask that, in the elaboration of a new instrument of government their solution of the problem or their judgment on other solutions which may be proposed, should be made an integral factor in the examination of the question and be given due weight. In the ultimate decision, it is therefore essential to find means by which

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Indians may be made parties to the deliberations so nearly affecting the future of their country."

With this object of making Indian opinion an integral factor in the examination of the question, His Majesty's Government proposed that the Commission should co-operate with a Joint Select Committee of the Central Legislatures in all-Indian matters, and with the Select Committees of the Provicial Legislatures in matters dealing with the Provinces. It was also laid down that the Report when submitted to Parliament, " will be referred for consideration to a Joint Committee of both Houses " which will take evidence from Indian bodies and consult a Joint Committee of the Central Legislatures. The proposals, especially as they are based on the exclusion of Indian representation from the Commission have led to an acrimonious controversy which is hardly suited to a calm and dispassionate examination of so important a political question as the future of Indian Government. Whatever arguments there may be in favour of a purely Parliamentary Commission, and it may be accepted that they are many of undoubted validity, the alienation of Indian opinion consequent upon so emphatic a repudiation of Indian claims to equal participation in deciding the future of thir country, should have been foreseen. As it is, the Commission is threatened with a boycott which, whether politically wise or suicidal, will certainly hamper its work and add to the difficulties of the situation. It is to be hoped, that these adverse circumstances will not prejudice the Commission in the examination of the problem.

The refusal of experienced public men to give evidence on the working of the system will certainly handicap the Commission in their enquiry. They may have before them only the point of view of the Government—the Civil Services—and of those non-officials who are more loyal to the Government than the Government itself. Unless therefore, the

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Commission takes special care to put itself in the place of the Indian Nationalist, it is more than likely, as circumstances now stand, that its views will be moulded by official opinion. It is therefore, all the more necessary, that an impartial and detached study of the working of Dyarchical Government in India should be made available to them.

The present writer does not claim any special qualification beyond that of an observant student of politics who has lived all over India and watched the working of the system with critical interest. He has had the opportunity to watch the proceedings of both the Central Legislatures and of one Provincial Council almost daily for months from the press gallery. These may not be sufficient qualifications to deal with so important a problem, but they have saved the writer from political partisanship.

There is only one more point to which the writer desires to call attention in this Introduction: and that is a point of vital importance in all discussions of the Indian Constitution. There is an idea, which one often meets with in writings of eminent men, both English and Indian, that what India wants is a Constitution suited to her own genius. This subject is more fully treated in the chapter entitled "The Conditions of Enquiry."

It may be stated, summarily that this vague phraseology indicates either, a reactionary mind which sees in democratic progress a challenge to interests, or a vague idealism generated by a faith in India's past greatness. Both attitudes are dangerous to the peaceful political evolution of India. What India wants, and what Britain has undertaken to give her, is nothing less than "Responsible Government." Even if it is accepted that each country has differing political ideals, and that institutions at variance with national character are not likely to take root or to succeed in uncongenial soil, the problem, as it affects India, remains the same. Indian

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political ideals are largely the reflection of what has grown up in England, and the century and a half of political contact has made them a part of Indian tradition. It is impossible to efface from history the last 100 years of political growth in India, and no one, who has studied the Indian movement, can deny that in the realm of ideas, more than in the realm of politics, the assimilated tradition of England has become the basis of Indian thought. Moreover, the transformations of government and the development of political institutions are to be in co-operation with and not independent of Great Britain. That fact alone renders all speculation about a Constitution, "indigenously developed and suited to the peculiar genius of India," futile.

The objective of Indian political development is clearly laid down. It is "the gradual development of Self-Governing institutions with a view to responsible government as an integral part of the Empire." If this declaration is adhered to, it clearly negatives all suggestion of a departure from the principle of Parliamentary responsible government as the basis of the future Constitution of India.

It only remains now to thank those friends who have helped the writer with suggestions and with sympathy. He is deeply obliged to Mr. C. R. Reddy, Vice-chancellor of the Andhra University, whose discussions with the writer, in the days when they were associated in work, helped him greatly to understand Council proceedings. He is also under obligations to Professor Sarma of Patiala and Mr. Mahadev Modak, both of whom helped him with their suggestions.

LONDON, *November 23, 1927.*

THE WORKING OF DYARCHY IN INDIA

CHAPTER I

THE GOVERNMENT OF INDIA BEFORE THE REFORMS

THE administration of India is entrusted by Parliament to a Governor-General in Council. The authority of Parliament is supreme and it is exercised through the Secretary of State for India who is invariably a member of the Cabinet. The Government of India is required by section 33 of the Government of India Act of 1915, to pay due obedience to all such orders as it may receive from the Secretary of State. From time to time successive Secretaries of State have laid it down emphatically " that 'the Government established in India is subordinate to the Government at Home and no Government can be subordinate unless it is within the power of the superior government to order what is to be done or left undone."* As recently as 1922, Lord Curzon referred to the Government of India as a subordinate branch of administration.

With this limitation, the Government of India rests with the Governor-General in Council. He is invested " with all the powers of Government over all parts of India, and is responsible for the good government in them all." The Governor-General acts in Council and even when, under exceptional circumstances, he overrides the authority of his Cabinet, his

*Dispatch of Gladstone's Government to Lord Mayo.

actions are officially considered to be that of the whole Government. The Council consists of 6 ordinary members and the Commander-in-Chief who is an extraordinary member. Originally, the method followed was that of collective deliberation on each question which was decided according to majority vote. The system of each member holding a portfolio came into existence only in the time of Lord Canning when the work of the departments was distributed, as in a Cabinet, among the members of the Council. The main departments from which the members take their names are Revenue, Law, Home, Finance, Commerce and Industry, and Education, besides the Foreign and Political, which is directly under the Governor-General.

India is divided into 8 major provinces (excluding Burma) and 6 minor charges. The eight major provinces are Madras, Bombay, Bengal, the United Provinces of Agra and Oudh, the Punjab, the Central Provinces and Berar, Bihar and Orissa, and Assam. The minor provinces are Coorg, Ajmir-Merwara, Baluchistan, the Andamans, Delhi, and the Nort-West Frontier Province. Among the major provinces, Madras, Bengal and Bombay, were styled presidencies. They were administered by Governors in Council. The United Provinces, the Punjab and Bihar and Orissa were administered by Lieutenant-Governors without the help of executive councils. Assam and the Central Provinces were under Chief Commissioners.

The Provincial Governments, before the Reform scheme, were merely what they were officially termed—local Governments. The conception of the Government of India, as one indivisible whole under the direct charge of the Governor-General in Council, involved strict control of provincial administration. At every turn, in financial, in legislative and in administrative matters, the Provincial Governments were bound hand and foot to the Government of India. There was

no matter in which the Central Government of India could not intervene, in fact did not intervene. This interference developed to such an extent that the Decentralisation Commission reported that the Government of India "have paid too little regard to the importance of developing a strong sense of responsibility among their subordinate agents and of giving sufficient weight to local sentiments and traditions. In our opinion, the burden of work could be materially diminished if the Indian Government were to refrain from interfering in unnecessary detail with the action of the authorities subordinate to them."

The control over the Provinces was most clearly seen in the financial system of the pre-reform days. By the Acts of 1853 and 1858, the revenues of India were treated as one, and from that time, the Provincial Governments were carried on by a system of doles. The Provincial Governments had no right of any kind to the revenues they raised. But this system was modified in time, and slowly from 1870 onwards, the Provincial Governments were given fixed grants and also the right of raising additional revenues from taxation. Soon afterwards, in Lord Lytton's time, the Central Government substituted the system of grants to a surrender of certain revenue heads to the Provinces and hence arose the classification of revenues into Indian, provincial and divided. The Central Government kept the right of resuming accumulated balances in the Provinces in cases of necessity, with the result that there was no incentive to economy in the financial administration of the Provinces. This system was modified in the time of Lord Curzon, when the revenues assigned to Provinces were definitely fixed. These assignments were based not on the revenues of each Province, but on the demand each of them put forward, and consequently, the Government kept a strict watch on expenditure. The whole effect of the system, before the Reforms, was to place

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the Provinces under the complete control of the Central Government and make them nothing more than subordinate agencies to the Government of India.

Though the supreme executive authority was thus vested in the Governor-General in Council and of Governors in Council and Lieutenant-Governors in the Provinces, the administrative system which they directed, was composed of the Civil Service which, in its corporate capacity, had such powers that it could claim in fact to be the Government of India. The Civil Services, before the Reforms, held every superior appointment in India, with the exception of the Governor-General and the Law Member of his Council, the Madras, Bombay and Bengal Governors and the Chief Justices of the High Court. Even in the Viceroy's Council, all the portfolios excepting Law, and in times of crisis Finance, were held by members of the Civil Service. All the Lieutenant-Governors belonged to the same service. A specified number of the Judges of Provincial High Courts were also Civil Service men. As the Montagu-Chelmsford Report expressed it : "It (The I. C. S.) has been in effect much more of a government corporation than a purely civil service in the English sense." Mr. Ramsay Macdonald, who was a member of the Public Service Commission (1913-1914), describes it thus: "The Indian Civil Service is more than a collection of individuals. It is a bureaucracy with a corporate life, a machine, a free-masonry. It moulds the raw recruit into its own image. It has to work as a whole. Many officers become wheels in a mechanism working by rule and repetition."

The Indian Civil Services differed from the administrative services in other countries in two ways. First, it was predominantly British in personnel. Though the recruitment to the service was by open competition, as the examination was held in London, the number of Indian candidates was small. To keep the service essentially British in character

was considered a necessity. Secondly, it was not merely an administrative body. The Civil Service claimed the right to advise the Government and insisted on being consulted on all matters of policy. In fact they constituted a governing caste, with rigid conventions and formulas. Thirdly, the Civil Service was not concerned merely with what may be called political administration. The superior judicial offices, under the High Court Bench, were reserved for them. They controlled, through the Secretariat, every branch of administration. Even the public works department, forest administration, police, and other technical services, were directed by the officers of the Indian Civil Service. In fact they combined the functions of the civil services with those of the political heads of departments in parliamentary countries.

Slowly however, a new element was introduced into this system of absolute bureaucratic control. This was the association of popular representatives with the affairs of Government. To the Legislative Council, established by the Act of 1861, a few Indians were nominated in order to represent Indian views. By the Indian Councils Act, 1892 a further step was taken in this direction. Lord Dufferin declared that "the time has come for us to take another step in the development of the same liberal policy and to give a still wider share in the administration of public affairs, to such Indian gentlemen as by their influence, by their acquirements and the confidence they inspired in their fellow-countrymen, are marked out as fitted to assist with their counsels the responsible rulers of the country." Lord Dufferin's Government recommended that the Legislative Council should be enlarged to include elected Indian representatives. And though the principle of election was rejected by the British Cabinet, the Council was enlarged to include Indian members who were nominally appointed but really elected by certain recognised bodies. The Council also received the

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right to discuss the Budget and to interpellate the Government.

The Minto-Morley Reforms of 1908 took the Councils a step further. The principle of elective representation was for the first time introduced into the Indian Councils. It was, of course, hedged in by numerous conditions. The Mohammedans elected their own representatives in separate constituencies, Chambers of Commerce, Landholders and other special interests were given direct representation. The general constituencies themselves were constituted out of municipalities and district boards. But with all this, the introduction of the principle of elected representation on the Councils was an important change. The Councils were constituted of officials, nominated non-officials and elected representatives. In all the Provincial Councils, the official votes were in a minority, though the Government, with the help of the nominated votes, could in all Provinces, except Bengal, out-vote the elected representatives. In the Central Legislature the Government had, at all times, a clear majority.

The enlarged Legislatures were given the right not only to discuss the Budget, but to move resolutions on it and divide the Council and to move resolutions on matters of general interest. It also gave the members wide opportunities for influencing the administration in general.

An integral part of the reforms of 1908, was the appointment of Indian members to the Executive Councils of the Governor-General and the Provincial Governors. This was a radical change and was carried out with difficulty, because of the strenuous opposition it met with from King Edward VII. Lord Morley also appointed an Indian to serve on the Council of the Secretary of State. The appointment of Indian public men, with no previous administrative training, to the highest offices in the Government, was most important, because it was the first open attack on the monopoly of the

Civil Service. Moreover, it was a recognition of the principle of the civil as against the official control of departments, and as Lord Morley made it clear, an emphatic assertion against the principle of racial discrimination in high appointments which the Government of India had so far followed.

The Minto-Morley Reforms left the Government of India an autocracy; but it was an autocracy which was in touch with popular opinion, though seldom influenced by it. The enlargement of the Legislative Councils led to considerable popular influence on the legislative side of the Government's work. It also familiarised the people with the right of the elected representatives to demand increasing control of administrative machinery. But unexpected weaknesses manifested themselves in the course of its working. The official members came to be organised into a *bloc* which voted like an automaton and opposed non-official propositions whether just or unjust. The non-officials, on the other hand had no function but to criticise; and their criticism, in view of the official *bloc* in the supreme Council, and the majority of official and nominated votes in the Provinces, carried but little weight with the Government.

The important thing, however, was that a legislative tradition had grown up side by side with the bureaucratic tradition of the services, and the former had made decided headway during the 30 years preceding the Reforms, at the expense of the latter. The Minto-Morley Reforms, with non-official majorities in the Provinces, and the official *bloc* in the Central Government, emphasised these contradictory tendencies.

Further reforms had become inevitable. The Civil Services, developed in an atmosphere of personal administration, had become, as a result of increasing control by the Secretariat, a soulless machinery out of touch with the population which

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it governed. At one time, slowness of communication with headquarters left much local freedom to the district officials—the man on the spot had to act for himself. Railways, telegraphs and telephones compacted the official machine to to such an extent, that the man on the spot became little more than a clerk or an agent to the man at the headquarters. Under the changed conditions of Indian political life, it was more than good officials of that kind that India required. Administration is a part of government and everywhere government is essentially political. But politics in India of the 20th century differed essentially from politics of the 19th. Then, political government meant only efficient administration with as little interference in the social life of the people as possible. Now, it involves an appreciation of collective thoughts, social forces, political energies, and not of these alone, but also of vague moods and unvocal feelings which are always facts *for* politics and may, at any time, become facts *in* politics. In short, the old world distinctions between things political and things executive was getting gradually obliterated. The mere executive efficiency which the Indian Civil Service had developed to an astonishing extent, was not of a character which could rise to that higher political efficiency which develops an understanding of complex social tendencies and gives insight into the things that agitate the human mind.

It is these facts that Lord Morley had in mind, when he declared in presenting the Indian Budget to the House of Commons in June 1907. "They (experienced officers) all or nearly all admit that there is estrangement, I ought to say refrigeration, between officers and the people. For the last few years, and this is a very important point, the doctrine of administrative efficiency has been pressed too hard . . . . . our administration, so shrewd observers and very experienced observers assure me, would be a great deal more popular if it

was a trifle less efficient, a trifle more elastic generally. We ought not to put mechanical efficiency at the head of our ideas."

Moreover, the war had quickened the democratic impulse in India. It had also made the demand for politicial reform more and more insistent. The emphasis put by British and Allied statesmen on self-determination during the later period of the European war, reacted on the political movement in India. British statesmen recognized that a clear and definite statement of British policy towards India in relation to these two facts—the demand for self-government and the introduction of democratic institutions—had become imperative. It was under such conditions that the Declaration of 20th August 1917 was made in Parliament. This Declaration which lays down unequivocally the policy of the British Government is as follows :—

"The policy of His Majesty's Government with which the Government of India are in complete accord, is that of increasing the association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India, as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken, as soon as possible, and that it is of the highest importance as a preliminary to considering what the steps should be that their should be a free and informal exchange of opinion between those in authority at Home and in India. His Majesty's Government have accordingly decided, with His Majesty's approval, that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and with the Government of India to consider with the Viceroy the views of the Local Governments and to receive with him the suggestions of representative bodies and others.

" I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be the judges of the time and measure of each advance and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility. Ample opportunity will be afforded for public discussion of the proposals which will be submitted in due course to Parliament."

This Declaration contained three principles—first, the principle of associating Indians in an increasing manner with the Government of the country which had already been accepted by the appointment of Indians to the Viceroy's and the Governors' Cabinets and in the Secretary of State's Council. The second was a definition of the goal of British Indian Government, which was declared to be " the gradual development of a self-governing institution with a view to responsible government in India, as an integral part of the Empire." The British Cabinet and Parliament accepted by this Declaration self-government for India on the Dominion model as their ultimate object. The first was meant to meet legitimate Indian grievances that they had no part in the administration, the second was in response to the democratic impulse and the demand for political freedom. The third principle was the clear enunciation of the claim of the British Government to be the sole judge of the time and measure of advance.

In accordance with the statement contained in the Declaration, Mr. Montagu visited India in the winter of 1917-18, and submitted to Parliament, a report which was signed jointly by himself and by Lord Chelmsford who was then the Governor-General. The Report is remarkable chiefly because it recognised that the new official policy of gradually

developing "Self-Governing institutions with a view to the progressive realisation of responsible government" was impossible on the lines of previous reforms. The essential characteristic of the Minto-Morley Act was that the Legislatures created under it were merely advisory bodies, without sharing any kind of authority or responsibility. It was impossible to develop representative institutions out of these. The Mountagu-Chelmsford Report also recognised that Self-Governing institutions were impossible as long as the Provinces continued to be agencies of the Government of India without administrative independence. The Report, therefore, came to the following conclusions and, as these form a basis of the Reforms Act, it is important to keep them in mind for the purpose of our discussion. They were :

"(i) There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control:

(ii) The Provinces are the domain in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once and our aim is to give complete responsibility as soon as conditions permit. This involves giving the Provinces at once the largest measure of independence, legislative, administrative and financial of the Government of India, which is compatible with the due discharge by the latter of its responsibilities :

(iii) The Government of India must remain wholly responsible to Parliament, and saving such responsiblity, its authority in essential matters must remain indisputable, pending experience of the effect of the changes now to be introduced in the Provinces. In the meantime, the Indian

Legislative Council should be enlarged and made more representative and its opportunities of influencing Government, increased :

(ix) In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and Provincial Governments must be relaxed."

Two Committees came out to India in 1918, to study on the spot, the problems connected with legislation based on these recommendations: questions relating to franchise, finance and functions. A Joint Committee of the two Houses of Parliament was also appointed to receive evidence on the proposals. The Reforms Act of 1919* was the outcome of these deliberations. It marked the close of an era in the history of British connection with India. The old idea was that India was a British possession to be governed, may be for the benefit of Indians, but without their participation. The Indian Government was not and did not pretend to be responsible to Indians. The Reforms Act did not introduce Responsible Government, but it introduced a change in the principle of the Government of India. A large body of influential Indian opinion considered the Reforms inadequate, unsatisfactory and unworkable, but there was hardly any controversy as to the rightness of the basic principle of the Reforms. It was about the adequacy of the Measure and not about its principles that Indian criticism was directed.

This change in the principle of government—the transformation from a purely British to a British-Indian Government, was emphasised even before the passage of the Act through the Houses—by the appointment of Sir S. Sinha to the Imperial War Cabinet, and later by his elevation to the Peerage as Lord Sinha of Raipur, and his inclusion in the Ministry as

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* See Chapter III.

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Under-Secretary of State for India. The fact that Lord Sinha was entrusted with the piloting of the Bill in the House of Lords was, in itself, meant to emphasise the change that had taken place in the relations between India and England. But however good the intentions of statesmen in 1918 were, circumstances beyond their control conspired to defeat them and the Reforms Act had to be worked, in an atmosphere, not of good-will, but of distrust and suspicion, such as India had never witnessed since 1857.

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CHAPTER II

THE REFORMED CONSTITUTION

THE Reformed Constitution affected the Central Government in three ways : in its relation to the Secretary of State, in its control over the Provinces, and thirdly, in its relation to the Legislatures. We have seen, that before the Reforms Act, the Government of India was no more than a subordinate administration carrying out the wishes and instructions of the Secretary of State. The Act of 1919, made no alteration in the theory of Parliamentary Sovereignty over India and the Secretary of State's powers over the Government at Delhi continued unimpaired. But though in theory it remained the same, it is clear that there was a change in the relative positions of Whitehall and Delhi. The purpose of the Act was that, so far as possible, the Government of India must take the opinion of the Legislature and carry out its wishes. Especially in financial matters, excepting in regard to certain subjects (called non-votable) which are protected by section 67A from the vote of the Legislature, the decision of the Assembly is, in ordinary circumstances, binding on the Government of India.* To this extent therefore, the control of the Secretary of State over the Government of India may be said to have been relaxed in practice in favour of the Indian Legislatures.

Moreover, by section 19 A, power is given to the Secretary of State in Council by rule to " regulate and restrict the exercise

* See *infra*, p. 45.

of the powers of superintendence, direction and control vested in the Secretary of State . . . or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Act of 1919."

Secondly, the Government of India has surrendered much of the power it exercised over the Provinces. The authority of the Government of India was maintained in three ways ; by the financial system which left the Province at the mercy of the Central Government : by the control of legislation, and by interference even in the ordinary details of administration. As the main provisions of the Act consisted in the establishment of Responsible Government in the Provinces, the authority of the Central Government, in all these three matters, had to be strictly limited by the Act itself. The whole range of subjects is divided into Provincial and Central, and though the Central Government does not surrender its supervisory and controlling authority over all Provincial subjects, the purpose of these divisions was to emancipate the Provincial Government from the parental tutelage under which they had previously lived.

In financial matters also, the Provinces were more independent of the Central Government. Before the Reforms, we saw that the Provinces were dependent on the Central Government for their revenues and this was the greatest obstacle in the way of Provincial autonomy. The Central and Provincial revenues were divided under the Act and this separation of finances laid the way for future development. The position was now reversed. The Government of India was not in a position to meet its whole expenditure from Central revenues. In fact, it was faced with a large deficit. The Committee which was appointed to go into the question of financial relations between the Provinces and the Central Government recommended a system of provincial contribution, which was to be the first charge on the Provincial revenues for the

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upkeep of the Central administration. In some Provinces this contribution was over 53 p. c. of the increased spending power under the new distribution. Of the disastrous effects of this system of Provincial contribution on the working of the Reforms we shall speak later. But apart from the question of contributions, which have now been modified, there is no doubt that the separation of the Provincial and Central revenues was one of the most important features of the Reforms.

Administratively, the authority of the Central Government, in certain of the Provincial subjects transferred to the control of the Legislative Council, has been abolished by statute. In other Provincial matters also, though the responsibility of the Central Government remains, the increased influence of the Provincial Legislatures and a large measure of financial control enjoyed by them render an inquisitorial interference, such as was the practice before the Reforms, impossible in practice.

So far as the Government of India was concerned, the most important Reform introduced by the Act was the establishment of a bi-cameral Legislature with increased powers. The Indian Legislature, as constituted by the Act, consists of the Legislative Assembly and the Council of State. The Legislative Assembly is an enlarged successor of the Minto-Morley Council and consists of 100 elected members, and 40 nominated by the Governor-General, of whom 26 are officials. The franchise for the Legislative Assembly is based on a fairly high property qualification. For the first five years the President of the Legislative Assembly was nominated by the Secretary of State. The Legislative Assembly so enlarged; as to represent different interests and communities in India, differed from the Minto Morley Council in the following respects. The principle of direct election was introduced which made the Assembly a representative Legislature for the whole of India. Secondly the Assembly had

a clear elected majority. The Minto-Morley Council had only a minority of elected members and the elections were not direct, but by the elected members of the Provincial Councils. The powers of the Assembly were also considerably enlarged. Besides the right of moving resolutions and interpellating the Government, the Assembly was given the right to move adjournments, to discuss urgent matters of public interest, and what was more important, was given an effective control over a large portion of the Budget. Under section 25 of the Act, supplies are to be voted in the form of demands for grants, and except for certain heads declared by the Government to be non-votable, the Assembly had, in ordinary circumstances, control over the items presented for its approval. We shall discuss in detail the financial and other powers of the Legislative Assembly in a later chapter.

The Council of State originated from a proposal meant as a device to get through measures which were thrown out by the Assembly. But the Joint Committee, which was firmly convinced of the desirability of second Chamber, transformed it into an upper House. It consists of 34 elected and 26 nominated members, not more than 20 of the latter being officials. The franchise is based not merely on a high property qualification but on status, such as past or present membership of a legislative body, past or present tenure of office of a local authority, past or present university distinction, the tenure of office in a co-operative banking society or the holding of a title conferred for literary merit. No Bill, except a money Bill, is deemed to have been passed by the Indian Legislature, unless it has been agreed to by both Chambers. The members of the Viceroy's Executive Council who are members either of the Assembly or of the Council, may speak in either, but may vote only in the Chamber to which they are nominated.

Another important change introduced in the Central

Government is the increase in the number of Indian Executive Councillors. Before the Reforms, the Governor-General's Council consisted of one Indian member out of six ordinary members. After 1919, three of six are Indians. This was meant as a fulfilment of that part of the Declaration of 1917 which spoke of the increasing association of Indians in every branch of Government.

It will be clear from what has been said, that the most important and fundamental changes that were introduced were in relation to the organisation, authority and character of the Central Government. In fact, as the Montagu-Chelmsford Report clearly stated, the Provinces had first to be emancipated from the control of the Central Government before parliamentary responsibility could be introduced. The whole object of the Act was, therefore, to restrict the powers of the Central Government over the Provinces and to introduce responsibility to the elected representatives to the extent that the authority of the Central Government was relaxed. The chief feature of the Reforms—from which the name Dyarchical Government arises—is the separation of functions into two classes, one called the Reserved departments which the Governor, with the help of his Executive Council, administers under the control and supervision of the Governor-General and the Secretary of State, and the other called the Transferred departments which are administered by the Governor with the help of the Ministers responsible to the elected Legislature of his Province. The purpose of the division was to introduce parliamentary responsibility in certain important subjects, and to give the Legislature the right to control and direct the administration. Before the Reforms, the Governor in Council, was responsible for the whole of the administration directly to the Central Government and indirectly to Parliament. If the Provinces were to be emancipated from the control from above, it can only be on the basis of control from below. The

alternative to control by executive order is control by popular vote. In the Transferred subjects, this control was handed over to the Legislature and their administration placed in the hands of elected Ministers. Thus there came into existence two divisions of Provincial Government, the Reserved half and the Transferred half. The main subjects that were Reserved for the administration of the Governor and his non-parliamentary Executive are Revenue, Law and Order, and Finance. The Transferred half* consists of local self-Government, medical adminstration, public health and sanitation, and vital statistics ; education, other than European and Anglo-Indian and exclusive of the Benares Hindu University and the Aligarh Muslim University, the Chiefs' Colleges and the Calcutta University—this latter only for a period of 5 years—public works, except in Assam : agriculture, exculsive of irrigation ; co-operative societies, excise, religious and charitable endowments and development of industries. The administration of these departments was to be carried on by Ministers who were to be responsible to the Legislature of the Province. So far as the Transferred subjects were concerned, the control of the Secretary of State and the Governor-General was relaxed, that of the latter by the Act and of the former by a Rule† of the Secretary of State in Council, dated 23rd of November 1920, made in exercise of his powers conferred by section 33 of the Act.

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* Officially defined as "matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonment, Act, 1910; subject to legislation by Indian legislature as regards (a) the powers of such authorities to borrow or otherwise than from a provincial Government, and (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.

† Rules under the Secretary of State's Acts, p. 258.

The Rule declared—" The powers of superintendence, direction, and control vested in the Secretary of State and the Secretary of State in Council under this Act, or otherwise shall, in relation to the transferred subjects be exercised only for the following purposes, namely :

(i) to safeguard the administration of central subjects :

(ii) to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement :

(iii) to safeguard Imperial interests :

(iv) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire : and

(v) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State or the Secretary of State in Council under the Act, namely, section 29A, section 30 (1*a*), Part VII A, or of any rules made by or with the sanction of the Secretary of State in Council."

So far as the Central Government was concerned, section 45 A (3) of the Act laid down, that " the powers of superintendence, direction, and control over Local Governments vested in the Governor-General in Council shall, in relation to the transferred subjects be exercised only for such purposes as may be specified in rules made under this Act. . ." The Devolution Rules, Part V (No. 49), limited this control to the first, second and fifth clases of the rule which the Secretary of State made restricting his own authority.

Within these limits the Provincial Government in the Transferred departments is responsible only to the Legislature and is administered by Ministers appointed from leaders of parties in the Councils and holding their office subject to the authority of the Legislature.

The Reserved departments, on the other hand, are administered by a non-parliamentary Executive, responsible only to the Governor in Council and to the Secretary of State. Of the nature of the division of their functions and the difficulties arising therefrom, we shall speak in a later chapter. The important thing to note here is that the Provincial Government consists of two halves, one of which is responsible only to the Governor-General, and the other is responsible to the elected representatives: that Finance is a reserved subject, administered by an Executive official, and that the two halves share a common purse, though in its control the Ministers have but little voice.

The Provincial Legislatures, which have thus been entrusted with considerable powers of control, are constituted on a more liberal franchise than the Indian Assembly. The strength of the Council varies according to the Province. The following table gives the number of elected and nominated members in all Councils.

	Elected	Nominated	Total
Madras ...	98	29	127
Bengal ...	114	26	140
United Provinces ...	100	23	123
Bombay ...	86	25	111
Bihar and Orissa ...	76	27	103
Punjab ...	71	22	93
Central Provinces & Berar	54	16	70
Assam ...	39	14	53

The Provincial Councils enjoy much larger powers than the Central Legislature in all matters excepting legislation. The legislative authority of the Provincial Councils is restricted in two ways; by the previous sanction of the Governor-General in Council, which is required in certain specific matters, and by the Provincial character of the Acts passed by the Councils. The Governor has also the right of certifying, vetoing or of

reserving, for the consideration of the Governor-General, any Bill passed by a Provincial Council. The power of certification is an authority given to the Governor to declare that a Bill (or a clause of it, or an amendment of it) affects the safety or tranquillity of a Province and to direct that no proceedings shall be taken thereon. The Governor also has the power of witholding his assent to any Bill passed by the Council, if he considers that it is necessary either for the peace and tranquillity of his Province or it confers unfair advantages on some or deprives others of advantages which they heretofore enjoyed. The Instrument of Instructions lays this down clearly: "We do hereby specially require and charge you to see that no Act of your Legislative Council shall be so framed that any of the diverse interests of or arising from race, religion, education, social condition, wealth or any other circumstance, may receive unfair advantage, or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed, or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large." Besides this power of veto, the Governor has also the right of reserving for the consideration of the Governor-General in Council, a Bill passed by the Legislature of his Province. The Governor is not merely empowered but directed* to reserve for the consideration of the Governor-General any Bill not having been previously sanctioned by the Governor-General which has been passed by the Legislative Council, if it appears to the Governor to contain provisions:

(i) Affecting the religion or religious rites of any class of British subjects in British India:

(ii) Regulating the constitution or function of any university:

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* Rules under section 12 (i) of the Government of India, Act 1919.

(iii) Having the effect of including within a Transferred subject, matters which have hitherto been classified as Reserved subjects :

(iv) Providing for the construction or management of a light or feeder railway :

(v) Affecting the land revenue of a Province.

He may also reserve for the consideration of the Governor-General, any Bill which appears to him to affect any matter wherewith he is specially charged under his Instrument of Instructions, or to affect any Central subject or the interests of any other Province.

Subject to these important restrictions, the legislative powers in the Provinces are in the hands of the Council. We shall see, in estimating the work of the Council, that so far as this authority is concerned, most Provincial Councils have utilised it to the fullest extent. The only occasion where the Governor of a Province had to reserve a Bill for the cosideration of the Governor-General, was in the important and far-reaching reform effected by the Hindu Religious Endowment Act of Madras, which clearly came within the provisions of the rule above discussed. The same Government also vetoed, with less justification, Bill seeking to protect tenant rights in Malabar, which in its essential principles and main provisions had received the previous sanction of the Governor-General. Otherwise, the legislative activities of the Provincial Councils have been unhampered. The financial authority of the Provincial Councils over the Transferred subjects is complete. The Council may cut down or refuse any demand made on behalf of the Transferred subjects. In the case of the Reserved subjects, the Governor is given the right of certifying that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subjects. There are also four important heads on which the Council's vote is not

required for expenditure. These non-votable items are: (1) the Provincial contributions to the Central Government, (2) interest and sinking fund charges on loans, (3) expenditure of which the amount is prescribed by law, (4) the salaries and pensions of High Court Judges and the Advocate-General of the Province.

The Council exercises control over the administration of the Transferred departments and indirectly influences by resolutions, questions, and by the reduction of demands, the administration of the Reserved departments. It was meant that the Councils should have considerable influence, though no direct authority, over the affairs of the Reserved half. How far and in what direction, they have been enabled to exercise such influence, we shall see in a later chapter.

The Provincial Councils as we noticed before, consist of elected members, representatives of special interests, nominated representatives of backward classes and of nominated officials and Executive councillors who are members ex-officio. Thus the elected members fall into two categories, those who represent a popular electorate, *e.g.*, members representing Mohammedans and non-Mohammedans, and those who represent special interests, *e. g.*, Indian and European Chambers of Commerce. The nominated members also fall into two divisions: those who are nominated to represent backward classes, and officials who represent merely the minimum voting strength of the Government. It is an anomalous Constitution as will be shown when the working of the system is considered. This much may be said here that the composition of the Council on the basis of the two contradictory systems, of popular representation, and the nomination of permanent officials, often junior officials who have no voice in the shaping of policy, militates against its responsible character. Also, so far, the members representing special European constituencies have considered themselves bound in duty, on all

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occasions, to vote with the Government. A permanent *bloc* of this kind, based not on any similarity of opinion or interest, but on the ground of supporting the Government, does not in any way add to the strength or the usefulness of the Council.

The non-parliamentary Executive of the Provinces consists of a Governor and two or four Councillors. It was originally suggested that it should be statutorily laid down that half the members of the Executive Council must be Indian. But the Joint Committee of the two Houses, which reported on the proposal, recommended that division of that kind, on a racial basis, was inadvisable, though in practice it was very desirable that at least half of the Executive should be Indian. This has been uniformly followed. The control in the Provinces, both in the Transferred and in the Reserved departments, had thus to a large extent been vested in Indian hands.

It should not, however, be forgotten that though the principle of responsibility was introduced and a measure of Indianisation was decided upon(and carried out in the Executive Government), the autocratic character of the Government was still maintained. In the Central Government there was not even the pretence of responsibility. It is true that the Assembly was given wide powers, but the irresponsible authority of the Governor-General in Council was safeguarded, by the extraordinary powers of certification and veto which were reserved for the Governor-General, and also by the constitution of the Council of State which was so composed as to give the Government a permanent and decided majority. The division of the Budget demands into votable and non-votable items constitutes a very serious restriction on the financial powers of the Assembly. Even in the Provincial Legislatures, autocracy, though weakened, still sits armed with the rights of certification and entrenched behind the Reserved half of the Government. The limitation of the powers of the

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Provincial Councils in legislative and financial matters has already been noticed. Besides, in the power of making rules which is vested in the Governor-General in Council, the Government has always at hand a weapon with which to enforce its authority.

But when all is said, it still cannot be denied that the Montagu-Chelmsford Act introduced changes which though inadequate in Indian opinion, fundamentally altered the character of British rule in India. For the first time, it was accepted that Britain is pledged not only to good government in India, but to responsible Government. Until 1919, this principle was altogether foreign to the structure of British rule. Lord Morley stoutly repudiated the idea when he introduced the Reform Act in 1908. The introduction of this principle, in however limited a field, and through a machinery which even its advocates did not claim to be anything more than a difficult and trying invention, was in itself a change of far-reaching character. The bureaucratic citadel had been breached; not only breached, but an advance-guard planted inside. It is inconceivable that any attempt will now be made to go back on that. What every student of Indian politics should remember is that, though the Montagu-Chelmsford Reforms were inadequate and unsatisfactory as Indian opinion has consistently held, the turn that was taken in 1919 was the right one. It was in the direction of Responsible Government. It is easy now to forget that, at that time other roads were equally open and might have been taken without difficulty. One has only to read, either Mr. Gokhale's Testament representing the Moderate view, or the Nationalist scheme put forward by the Congress and the Muslim League, to realise this. It is to the credit of Mr. Montagu that he saw clearly the alternatives before him and stuck firmly to the principle of Responsible Parliamentary Government as the only line of sure advance. The introduction of that principle

is, in itself, the most important decision taken by Parliament in British Indian history since the first interference by Lord North in the affairs of the East India Company. That, in spite of determined opposition to the details of the Reforms, this great service of Mr. Montagu was recognised in India, is clear from the feeling which was evoked all over India at his death.

Secondly, it is equally clear that " the increasing association of Indians in every branch of the administration," which the Declaration of 1917 promised, was effected to a considerable though still inadequate extent. Half the Executive in the Central as well as in the Provincial Governments are now Indians. It was no doubt to emphasise this aspect of the matter, than an Indian was appointed Governor of Bihar and Orissa, though, so far, the example has not been followed. Appointments which were, until recently, exclusively reserved for Europeans, like Chief Justiceships of High Courts, have now been thrown open. Though the appointment of Indians to these posts has up to now, only been in the nature of exceptions, its purpose is unmistakable. It is to demonstrate that the policy of the Government is increasingly to convert the British rule in India from an alien administration into an Indian Government, based no doubt on British connection, but still Indian in its outlook and to a large extent Indian in its personnel.

In these two respects Indian opinion has always looked upon the Montagu-Chelmsford Reforms as a distinct advance, and, but for the political circumstances to which we must now turn our attention, the working of the Reforms would, perhaps, have yielded more satisfactory results.

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CHAPTER III

POLITICAL CONDITIONS

WHEN the Reform proposals were first made and the Act itself was on the anvil, Indian opinion, though seriously critical in its attitude, was in no sense hostile. The evidence submitted before the Joint Committee of the two Houses, on behalf of the leading political organisation of the country, clearly showed that, though Indian opinion was strongly against the provision by which the element of responsibility introduced in the Councils was sought to be hedged round there was every desire to work the Reforms for what they were worth, There was one section, the newly-formed party of Liberals, which enthusiastically welcomed it ; and that party contained some of the most respected names in Indian politics, men who were responsible, to a very large extent, for the national movement. The Nationalists though they criticised many of its provisions, especially the continuance of legislative irresponsibility in the Central Government and were loud in proclaiming the inadequacy of the measure of Responsible Government granted to the Provinces, were still prepared to work it. The present writer attended, as a guest, a private party meeting of the Indian Home Rule League in May 1919, in the house of Mr. Bal Gangadhar Tilak, who was then the accepted leader of the Left Wing Nationalists. It was a conclave of party chiefs held under the presidency of Mr. Tilak himself. The object of the meeting was to consider the advisability of fighting the new elections on a party basis,

and it was unanimously agreed that every opportunity provided by the new Reforms should be utilised to the fullest extent. Mr Tilak himself agreed to stand for a constituency. This was in May 1919. In May 1920, the whole aspect of things had altered. Within the short period of one year, the political atmosphere of India had undergone a complete change. Goodwill and friendliness which had animated the discussions following the Reforms Report had vanished. The usually calm atmosphere of India gave place to a violent thunder-storm, in which the Reforms Act and the work of reconciliation in general, attempted by Mr. Montagu and his advisers, received an unexpected and violent blow.

What was it that had worked so sudden a change in the political sky? Four factors, each of them important in itself, contributed to it. They were the Rowlatt Bill, the massacre of Jallianwalla *Bagh*, the Turkish Treaty and the attitude of the Civil Service towards the Reforms. Early in 1919, the Government of India introduced into the Legislative Council a Bill to amend the provisions of the criminal law relating to public safety. During the war, there was an emergency Measure enacted in India, entitled the Defence of India Act, an Indian version of the British D. O. R. A. The Executive, having tasted the pleasure of summary criminal jurisdiction, was not prepared to forego it and desired to enact its main provisions as a permanent part of the criminal law of the country. The official justification for this course was that a Committee, presided over by Mr. Justice Rowlatt to enquire into revolutionary activities in India, had come to the conclusion that the hands of the Executive must be strengthened. The drastic and draconian character of the legislation may be judged from the following provisions: "Where in the opinion of the local government there are reasonable grounds for believing that any person is or has been actively concerned in such area in any movement of an anarchical nature, the local government may

place all the material in its possession relating to his case before a judicial officer who is qualified for appointment to a High Court and take his opinion thereon. If, after considering such opinion, the local government is satisfied that action under this section is necessary, it may by order in writing give all or any of the following directions namely: that such a person (a) shall within such a period as may be specified in the order execute a bond: (b) shall notify his residence or change of residence: (c) shall remain or reside in any area in British India: (d) shall abstain from any act which in the opinion of the local government is calculated to disturb public peace or is prejudicial to public safety: (e) shall report himself to the officer in charge of the police station nearest to his residence at such periods as may be specified." Moreover, the Local Government was empowered by order in writing, on the report of an official of its own choosing, to arrest anyone without warrant and imprison him without trial and to search any place.

Indian opinion was unanimous against the Bill. The Indian members of the old Imperial Legislative Council, every one of whom has since then risen to the highest position* in India, opposed the Bill. While they were prepared to arm the Government of India with necessary powers, they refused

*Mr. V. J. Patel, President of the Assembly; Sir Tej Bahadur Sapru, appointed Law Member of the Viceroy's Cabinet a year later; Sir B. N. Sarma, appointed in succession to various positions in the Viceroy's Cabinet after a few months; Sir Mohammed Shafi, Education Member; Right Hon. V. S. S. Sastri, appointed Delegate to the Imperial Conference and Indian Representative at the Washington Conference; Sir Surendranath Bannerjea, First Minister in Bengal; Mr. S. Sinha, Finance Member, Bihar Government; the Rajah of Mahmudabad, Home Member of the United Provinces Government; Sir F. Currimbhoy, Member of the Executive Council, Bombay Government; and Sir G. Chitnavis, the first President of the Central Provinces Council.

to accept so violent a change from the Rule of Law to the Rule of *lettre de cachet*. The question that was uppermost in every Indian's mind at the time was: how can this piece of czarist legislation be reconciled with the spirit of the proposed Reforms? The appeal that was made by all the members was to save the Reforms by liberalising the provisions of this bill.* The Government stood adamant. A non-party observer, Mr. K. T. Paul, who was present at Delhi during the time, describes the atmosphere which prevailed in the capital. "The

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*The official description of the Rowlatt Act, its purposes and the attitude of Indians towards it, may be seen in the following extract from the Report on the Material and Moral Progress of India, 1919-20, placed before the Houses of Parliament (pp. 25—26.)

"In view of the salutary effect of this temporary provision (Defence of India Act), the Rowlatt Committee concluded that the principal requirements of the situation was the strengthening of the ordinary machine of law and order in such a fashion as to lend it permanently something of the power which it temporarily had acquired when buttressed by the Defence of India Act. Accordingly, Government determined to introduce two measures. . . One of the bills was a temporary measure framed to enable anarchist offences to be tried expeditiously by a strong court consisting of 3 High Court Judges, with *no right of appeal*. The second bill was intended to make a permanent change in the ordinary criminal law of the land. The possession of a seditious document with the intention to publish or circulate the same was to be punishable with imprisonment. . . ." The feeling of hostility on the part of Indians, the same report continues "sprang not so much from the provisions of the Bills themselves as from a fear first that the powers which the Bills conferred might be misused, and secondly, that the very fact that the Bills were considered necessary, constituted an index both to the genuine opinion of the Government about Indian aspirations and to the strength of the resistance which the Government would probably offer to their realisation. For it must be remembered that, though the Montagu-Chelmsford Report had been published towards the end of 1918, the Committees which were working out details had not yet published their conclusions."

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incidents of those fateful days stand before memory in tragic vividness. I was at Delhi at the time. On a Saturday, Sir William Vincent was persuaded to allow a day to intervene in the passage of the Rowlatt Bill. It was to be taken up on the Monday and, as all the world expected, to be forced through to a conclusion. I remember that particular Sunday. I called on Mr. Marris, Sir William Vincent's secretary. I also called on Mr. Srinivasa Sastri. With neither of them did I discuss the Bill, but in their rooms and wherever I went in Delhi, the atmosphere had one even temperature, of set determination. Hope had fled from both sides." It was the same all over India at the time the Bill was being hurried through.

The Bill was rushed through ; but the agitation it produced in the country was something, the like of which the British Government in India had never seen before. Mr. Gandhi, who so far had taken no leading part in Indian political affairs, stepped forward and declared for a general *hartal*, a day of mourning and strike, as a protest against this Measure. He headed the agitation against the Bill. The whole of India answered his call, and in the Punjab, where the rumour of his arrest had roused popular emotion to a pitch, the Government in certain areas was handed over to the military authorities. The events that culminated in the massacre at Amritsar and the fancy punishments—like the crawling order by which no Indian was allowed to pass through a particular street except by crawling on his belly—were of such a character as to leave memories of humiliation and bitterness. The following description, by Sir Valentine Chirol, who cannot be accused of pro-Indian bias, will show the enormity of the crime committed at Amritsar.

"Order had been restored before General Dyer reached Amritsar but, on an ill-omened day he thought himself justified in opening fire without warning upon a great crowd

assembled in the Jallianwalla *Bagh* in defiance of his orders prohibiting all public meetings. Only those, perhaps, who have visited the *Bagh*, after studying the evidence given by General Dyer before a Committee of Enquiry presided over by Lord Hunter, a former Solicitor-General of Scotland, can realise the full horror of the tragedy enacted there. It was to dig so sinister a gulf between the ruling and the subject race that the story of that black day in the annals of British India cannot be ignored. The *Bagh* —once a garden—has long been, save for one clump of old trees, an open space covering perhaps the area of Trafalgar Square, enclosed on every side by mud walls with tall houses rising in many places close up against and above them. The approaches are few and extremely narrow. By one of them, leading on to the highest ground in the *Bagh*, General Dyer with a party of 50 Gurkha entered the *Bagh*, and saw, at a distance of perhaps a hundred yards, a dense crowd, variously estimated at from 6,000 to 10,000, most of them engaged in listening to speeches. General Dyer assumed, rightly enough, that this was a public meeting in contravention of his orders and a seditious one. Without a word of warning, he opened and kept upon them a fusillade that did not stop until, as he himself said, his party's ammunition was almost exhausted, though the panic-stricken multitude broke at once, struggling to escape through the narrow exits or attempting vainly to climb the walls, or in despair throwing themselves flat on the ground. General Dyer, according to his own statement, personally directed the firing to the points where the crowd was thickest. The "targets," he declared, were "good" and by the time he and his men went off by the same way they had come, they had killed 379, according to the official figures given some months later by Government, and they left about 1200 wounded on the ground, for whom he did not consider it his "job" to provide any help whatever. General Dyer was convinced that the sternest measures

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were necessary to spread terror through the Punjab and scotch a great revolutionary movement. He followed up his actions at the *Bagh* by a "crawling order" compelling all Indians to go on all-fours who wanted to pass through a certain street. . . ."*

The true facts about this tragedy were not known until a few weeks later. The fury that burst upon India when the facts came to light could be imagined. But it was not General Dyer's action that hurt India most. An atavistic relapse on the part of a military maniac need not have embittered the relations between England and India; but for the attitude of the European community in India, and of the House of Lords in England. General Dyer was acclaimed a hero in every European club in India. Subscriptions were collected to give him a present worthy of his achievement. Every European Association in India, except the Punjab Association—the exception is significant—raised funds on his behalf and championed his cause. While the Coalition Cabinet, anxious for the safety of the Reforms and the prestige of its civilian government, repudiated Dyer's theory of terrorism and relieved him from service, the House of Lords went to the extent of passing a vote of thanks for his great services in India! This was indeed adding insult to injury. The atmosphere of bitterness and distrust was so strong in India, that the Duke of Connaught in his speech, opening the new Legislatures in February 1921, made a touching allusion in public to it. "Since I landed in Bombay," said His Royal Highness, "I have felt around me bitterness and estrangement between those who have been and should be friends. The shadow of Amritsar has lengthened over the fair face of India. I know how deep is the concern felt by His Majesty the King-Emperor at the terrible chapter of the events in the Punjab." But in spite of this strong condemnation,

*Sir Valentine Chirol, India, pp. 207-209.

by the Duke of Connaught, the non-official Europeans in India were ranged on the side of General Dyer. That curious psychological factor which unites all Englishmen in a foreign country in support of one of them, even when he is clearly in the wrong, helped to create a racial bitterness to which there is no parallel in Indo-British relations.

On the top of this came the estrangement of the Mohammedan population over the question of the Turkish Treaty. The Treaty of Severes had dismembered Turkey. The Khalif was living in Constantinople as a protege of the British. Smyrna was handed over to the Greeks, and Mr. Lloyd George was egging on the Greeks to occupy as much of Anatolia as they could. Mohammedan opinion in India was indignant at what it considered a new and more objectionable crusade against Islam. The religious fervour of the Moslems was stirred and the Khilafat movement, which was the outcome of it, took a definitely anti-British attitude.

Mr. Gandhi's non-co-operation was the result of these two factors. We are not concerned here with the movement itself. Mr. Gandhi declared that the only effective guarantee against the repetition of the horrible incidents at Amritsar was the achievement of *Swaraj*. He defined *Swaraj*—not as independence—but as a change of heart on the part of the British. What he was concerned about was not that the Government of India was British and alien, but that it possessed a mentality which could tolerate the massacre at Amritsar, and allow the partition of Turkey against the unanimous opinion of the Indian Muslims. He persuaded the Congress—and the country generally—to accept his programme of non-co-operation, one of the main planks of which was the boycott of the Councils. It is not the wisdom of that policy that is under discussion here. For our purpose, it is necessary to remember, that the events of the preceding 12 months had conspired to bring into existence a movement

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which placed on its banner the war-cry "Boycott the Reforms."

The sullen opposition of a large body of the Indian Civil Service to the Reforms also contributed to the feeling of distrust that was growing up in India. It could never have been expected that the Indian Civil Service, after enjoying unlimited powers for so long a time, would surrender its authority without a struggle. The democratic impulse that the war had quickened among all classess of people in England had hardly touched Civil Service Officials in India. Living in an atmosphere which was impervious to the ideas agitating educated India, they did not, speaking generally, even know of the transformation that was taking place before their eyes. It was only when the Montagu-Chelmsford Report was published that they awoke to the new situation. We need not be surprised that they did their best to whittle down the proposals and in general to work against the idea of responsibility. The alternative scheme submitted by the Lieutenant-Governors—themselves the most senior members of the Civil Service and its champions—repudiated the idea of responsibility. They were prepared for concessions, but only such concessions as would leave the power of the Civil Service unimpaired. Another line of attack, on the part of the Civil Service, was discovered in the first dispatch of the Government of India on the Reform Scheme, the dispatch of March 5th, 1919. Propaganda on their behalf, inspired by influential members of the Service, became intense in England. It was no wonder that the cry of "White Mutiny" was raised in India.

It was under these circumstances that the Reforms were put into operation. The Indian National Congress had officially declared against them and in favour of a policy of boycott. Mohammedan opinion whole-heartedly supported Mr. Gandhi, and the Conference of Ulema declared that any co-operation

with the Government, under these circumstances, was sinful. During the winter of 1920—21, the non-co-operation movement gained almost universal hold over India. The effect of all this was seen in the elections to the new Legislatures, at which only a very small percentage of the electorate went to the polls. There was great difficulty even in getting candidates to stand. In one constituency, the non-co-operators, with a view to making the Councils look ridiculous, put up an illiterate barber as a candidate and had him elected. The imperial city of Delhi elected a sweetmeat-seller who, in his manifesto, held forth the alluring prospect that if he were elected he would sell his sweets rolled up in Rowlatt Acts. All over the country the boycott of the Reforms was effective. It is true that there was not a single constituency which did not elect a member. But the interest of the whole people was centred not on the Reformed Councils, but on the fight that was being carried on by Mr. Gandhi and the non-co-operators.

It was not only at the time of the introduction of the Reforms the feeling of ill-will manifested itself. All through the last 8 years, from the year in which the Act was passed until to-day, this heritage of distrust, suspicion and racial antagonism has continued. With the first shot of Dyer's guns at Amritsar vanished all prospects of friendly co-operation. The non-co-operation movement synchronised with the Reforms. Though the movement itself was never based on racial hatred, it engendered, among the Eupopean population, much mistrust and hostility. The transformation of the non-co-operators into *Swarajists*, committed to a policy of entering the Councils for the purpose of obstruction, did not in any way affect their attitude. The feeling of friendly trust in Indian affairs, which was manifested by all sections of political opinion in England during the early days of the Reforms vanished, at what was interpreted as ungrateful

hostility on the part of the Indians. British opinion stiffened towards India. The alarmist stories of disgruntled ex-Governors began to be credited, with the result that there was a considerable fall in the number of British candidates for the Indian Civil Service. In the I. C. S. examination of 1921, out of 86 candidates only 26 were Europeans. There were 16 appointments and only 3 were Europeans one of whom retired from service almost immediately. It became the fashion to speak of India as the Lost Dominion. The agitation in England reached such a stage that the Coalition Cabinet felt called upon to reassure the Services and Mr. Lloyd George was persuaded to make a speech in Parliament,* to that effect. The speech he made had the effect of further alienating Indian sympathies and making India suspect that the Reforms were no more than a sham. The following sentences in his speech gave colour to that interpretation :

> " Those changes (the Reforms) were in the nature of an experiment, and they must be treated as an experiment. A great and important experiment but still an experiment . . ."

After stating that the Reforms had proved a success and that Indians had shown themselves good Parliamentarians, Mr. Lloyd George went on :

> " What I want specially to say is this, that whatever their success as Parliamentarians or as Administrators, I can see no period when they can dispense with the guidance and assistance of the small nucleus of the British Civil Service. They are the steel-frame of the whole structure. I do not care what you build on it, if you take the steel-frame out, the whole structure will collapse."

The conclusion of the speech was even more important :

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*2nd of August 1922.

"There is an institution which we will not interfere with, there is one institution we will not cripple, there is one institution we will not deprive of its functions or of its privileges, and that is the British Civil Service in India."

This statement in Parliament created consternation in India. It was taken as a new Declaration, an attempt on the part of the reactionaries to go back on the policy of 1917. It is clear that if Mr. Lloyd George's speech meant anything at all, it meant the repudiation of the principle of Responsible Government even as the goal of British policy in India. Mr. Lloyd George declared that the functions and privileges of the British Civil Services will remain unimpaired. The question that was asked in India was, how could any scheme of Responsible Government, in however limited a sphere, such as was given to India by the Act of 1919, be reconciled with undiminished powers for a governing Civil Service? Again, if the British Government cannot visualise an India which is not controlled by the Services, how can complete Responsible Government, as an integral part of the Empire, the gradual achievement of which was declared by the pronouncement of 1917 to be the goal of Indian policy, ever be realised? There was no necessity to take Mr. Lloyd George's declaration in that tragic spirit. His speech was meant only to convey an assurance to the Civil Services that the British Government would look after their interests—a legitimate and, perhaps from the British point of view, a necessary step. What we are concerned with is not the intrinsic importance of the speech, but the effect it had in convincing the people in India, that the Reforms were nothing more than dishonest trickery. It is easy to see now that exaggerated importance was attached by the Indian public to an indiscreet utterance, but its effect was to stiffen the hostility of Indian public opinion towards the Reforms.

A greater and far more serious check that the Reforms had to encounter, was the use of Regulation III of 1818, to arrest and detain, without trial, a considerable number of public workers in Bengal. Revolutionary crime was known to exist there. On this point there is no doubt at all, and Indian Nationalist leaders, like the late Deshabandhu Das, had themselves acknowledged it in public. But that did not and could not justify the arrest and deportation of a large number of Bengali youths, some of whom were occupying responsible positions in public life. No charge was brought against them. They were not tried in any court of law. They were arrested and deported merely on an Executive order based on an arbitrary Regulation passed in 1818. Again, under the Regulation itself, those arrested could be detained only for six months. The Legislative Council refused to pass a law authorising the Executive to prolong the imprisonment, but by the use of the extraordinary powers vested in the Governor, the Act was certified and taken as passed. Thus, without either Legislative or judicial sanction, a Provincial Government, even under the Reformed Constitution, has been able to arrest and deport those whom it disliked. The question before the Indian public was not whether these youths were actually engaged in revolutionary activity. They might or they might not have been. Executive and judicial ideas of revolutionary activity differ widely from each other. In India there have been cases of people transported for life, by Executive authority, for waging war against the King, being made, shortly afterwards, Ministers of Government. Therefore, in the absence of any evidence submitted before a court, the Indian public naturally refused to accept the version given out by the Executive. To their mind a more important principle is involved in it. Is the Government in India based on the Rule of Law or is it based on the despotic theory of *lettre de cachet*? If the Reformed Legislatures have not the

authority even to see that elementary justice is done, then the public in India argued, the Reforms conferred not the substance but the shadow of Self-Government.

Thus, from the very beginning, the Reforms never had the proper political atmosphere. A total lack of imagination on the part of the Indian Government in insisting on the Rowlatt Act—the unwisdom of which has now been proved by the fact that it has not been revived and when it was on the Statute book it was never put in operation—and the tragedy at Amritsar, combined to prejudice the Indian people and create in them a bitterness hardly conducive to the working of the new scheme of government. Successive mistakes on the part of both the British Cabinet and of the Government of India and the prevalent idea that the Civil Service was hostile to the change and working for its failure, helped to sustain the feeling of bitterness and to keep the people sullen and discontented. With patience and understanding on both sides, much of this could have been avoided. But by the time the bitterness in India, about the Amritsar tragedy, and among the Mohammedans about the Turkish peace, had died out, the attitude of the British Government, and also of the public, towards India, had undergone a great change. The political success of the Reforms was therefore jeopardised from the beginning. It is only when this fact is understood, that the success and failure of the new machinery introduced by the Act of 1919, will be properly estimated.

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CHAPTER IV

DYARCHY IN THE PROVINCES

IT will be seen from the summary description of the Act of 1919, given in Chapter II, that the pivot on which the whole Reforms scheme moved, was the establishment of partial Responsible Government in the Provinces, on the basis of a division of functions into Transferred and Reserved halves. It is here that Dyarchy, as a system of administration, was introduced. The working of the Act, therefore, can be judged only by a detailed analysis of the Reforms as they have functioned in the Provinces; and it is to this problem that we must now turn our attention. The subject has to be studied, not merely to see how far the intentions of the Parliament have been carried out in the way of establishing Responsible Government, but also from the point of view of administrative efficiency, the method and extent of popular control and the nature and line of further reforms. This could only be done by examining the working of the scheme during the last six years under the following heads :—

(i) The relation of the Governor and his Ministers :
(ii) The relations between the Transferred and the Reserved halves :
(iii) The responsibility of the Ministers to the Legislature :
(iv) The Legislature and the Executive :
(v) Popular control in administration :
(vi) Finance, the Civil Services and the Reforms.

One preliminary observation about the division of subjects into Transferred and Reserved, is of importance. This division was, in the nature of things, arbitrary ; but it was more than that. It was conceived in such a way that the Ministers who were supposed to administer the subjects Transferred, were never in control of the whole of any single department. The main subjects Transferred in all Provinces were education, sanitation, local self-government, agriculture and industries. But there were serious limitations affecting each of these. In his evidence before the Muddiman Committee, Sir K. V. Reddi, the first Minister of Industries in the Madras Government, stated this limitation in the following words :—

" I was a Minister for development without the forests. I was a Minister of agriculture minus irrigation. As Minister of Agriculture, I had nothing to do with the administration of the Madras Agriculturists Loans Act or the Madras Land Improvement Loans Act. . . The efficacy and efficiency of a Minister of Agriculture without having anything to do with irrigation, agricultural loans, land improvement loans and famine relief, may better be imagined than described. Then again, I was Minister for industries without factories, boilers, electricity and water power, mines or labour, all of which are reserved subjects." The medical administration, which is again under a Minister, is subject to No. 12 of the Devolution rules which states that " a local government shall employ such number of Indian Medical service officers in such appointments and on *such* terms and conditions as may be prescribed by the Secretary of State in Council. " Education, again, is a much divided subject. European and Anglo-Indian education is a reserved subject, presumably because Indian Ministers could not be trusted to deal fairly with these communities. Chiefs' Colleges and any institution maintained by the Government, " for the benefit of the members of His Majesty's forces or *of other* public servants, or of children of

members of such members or servants" are outside the control of Ministers. Besides, the Government of India maintains an education department under the charge of a Member of the Viceroy's Cabinet and the Central Legislature has, by the rules, concurrent jurisdiction on all important matters connected with Universities. The division of functions therefore, was not made in such a way as to give the Transferred departments autonomy within their own sphere.

(1) The Governor

The most important feature of the Reforms Act was the change introduced in the position of the Governor. In the Reserved departments, the Governor in Council, that is the Governor acting with his non-parliamentary Executive, was responsible to the Secretary of State, through the Governor-General in Council. So far his position had not changed. With regard to the Transferred departments, the Governor was clearly understood to stand in a different position. The Secretary of State and the Government of India have relaxed their control over the Provincial Administrations in the Transferred subjects and reserved the right to interference and control only in specified matters. To whom was the Governor then responsible for the administration of those departments? Clearly the purpose of the Act was to make him not an irresponsible Executive head, but a constitutional Governor whose Ministers would be responsible to the Council. We shall discuss the question of Ministerial responsibility later in this Chapter. But so far as the Governors are concerned, this intention of the Act was forgotten after the first two years and the Governors claimed more rights and authority than they ever possesed before the Reforms.* This

* Sir A. P. Patro, while still Minister of Education, stated in his official memorandum that one of the serious anomalies in the Scheme of Reforms is that the Governor of the Province is made more abso-

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was done by three methods. Under section 49 (*2*) of the Act, power was given to the Governor to make Rules and Orders "for the more convenient transaction of business." These Rules were so framed as to concentrate power, as far as possible, in the hands of the Governor. Secondly, the Governor consulted the Ministers individually, and in cases of difference of opinion, the practice has grown up of overruling the Minister, though the Act, sec. 52 (*3*), lays down that he shall be guided by that advice, except in cases of fundamental difference. Mr. Chintamani, the first Minister of Education in the United Provinces, stated in his memorandum to the Muddiman Committee, that he was even overruled in the matter of nomination to a library committee. In the Reserved departments, if there is a difference of opinion between a Member and the Governor, the matter is brought up before the Executive Council and decided by a majority vote. The Governor, by dealing individually with the Ministers, has assumed greater power of control over the Transferred departments, than over even the Reserved departments, while in fact it was the whole purpose of the Act that such control should only be exercised in exceptional matters. Thirdly, the Governors in Provinces have advanced the untenable theory that the Ministers are only their advisers. The Rules framed under the Act (not by Parliament but by the Government of India), proceed on the assumption that the new Councils are only an enlargement of the old Minto-Morley Councils, not intended to override the Governor, but to extend his field of consultation and advice. On this ground, the Ministers were only supposed to give advice which the Governor was at liberty to accept or to reject. In fact, the Law Officers of the Madras Government, went to the extent of taking objection to the Legislative

lute in the Transferred subjects than in the Reserved subjects . . . Under the provisions of section 52, the Governor is held to be in charge of the departments transferred to the Ministers.

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Council discussing appointments in the Transferred subjects, on the ground that the responsibility lay with the Governor whose actions could not be criticised by the Council. This objection, which the President rightly ruled out, has important bearings on the question of Ministerial responsibility. As the law stands, by the rules framed under sub-section 5 of section 72 D, no resolution can be moved in regard to any action taken by the Governor even in the Transferred departments. So far as the Governor himself is concerned, the problem clearly is this. If the Governor is a Constitutional head, then it may be accepted that his action cannot be criticised by the Councils on the ground that the Constitution vests the responsibility on the Ministers. If on the other hand, the Governor claims to act on his own authority, it is equally clear that his actions should be open to discussion.

The present position is that, to the extent the Government of India (and the Secretary of State) have relaxed control over the Transferred subjects, the Governor's powers have been increased and he virtually stands forth as an irresponsible, rather than as a constitutional head. This has been well brought out in the evidence given by ex-Ministers before the Muddiman Committee. Mr. Chintamani, who was a Minister in the United Provinces, stated the matter thus in his written evidence: "I have passed through every stage from a habitual: 'Honourable Minister is responsible and his view shall prevail,' and 'I must support the Honourable Minister,' to being over-ruled in matters of varying degrees of importance and unimportance down to nominations to a library committee." Lala Hari Kishen Lal, who was Minister in the Punjab, gave evidence to the same effect. Sir A. P. Patro, Minister in Madras, stated that the Ministers were completely under the control of the Governor. Sir Chimanlal Setalwad, who was an Executive Councillor in Bombay, declared that the Governor instead of limiting his interference to exceptional

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occasions of fundamental differences, claimed that "the Minister's function in law was merely to advise."

There were two other important methods by which the Governor's powers were aggrandised. The Instrument of Instructions issued to the Governors charged them "to safeguard all members of Our services employed in the said presidency in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges." This Instruction is only to safeguard their interests, but it has been interpreted to mean that all matters relating to the services should be under the control of the Governor. Nowhere does it give authority for their claim that the appointments, postings and promotions in the Ministers' departments should be under the sole charge of the Governor. It gives him the right to see that no injustice is done. But the Governors have assumed the sole power of appointment and transfer, claiming to do so by virtue of a dispatch of the Court of Directors in 1844, and the Ministers in their departments are left absolutely powerless. In Bombay, the Governor claimed this right even with regard to the Executive Council. The practice before 1922 was that, on the proposals being sent by the department to the Private Secretary to the Governor, the Governor, if he approved, circulated it to the Members in the following form: "I propose to make, with the concurrence of my Honourable Colleagues, the following appointments." The Members of Council then recorded their opinion and the majority view prevailed. The Governor decided to alter this and the Members were then merely informed that he was making the appointments. On one occasion even the form "the Governor in Council is pleased to appoint" was changed to "the Governor is pleased to appoint."

By the Rules of Executive Business, in all matters of dispute between the Reserved and the Transferred half, the

final authority lies with the Governor. This was an additional source of power. In the days before the Reforms, in case of any difference between two departments, the majority view of the Council to which it was referred prevailed. Now the Governor is the final authority, and this also has worked to aggrandise the power of the Governor, at the expense of both the Executive Council and of the Ministry.

As has been noticed, according to the Rules under sub-section. 5 of section 72 D, the Legislative Council is powerless to criticise any action of the Governor. He sends messages to the Council to which no reply can be voted. Besides this, he has wide powers reserved under the Act itself, restricting the Legislative and Financial authority of the Council. He can certify Measures rejected by the Council, he can veto, or reserve for the consideration of the Government of India, legislation passed by the Council. He can disallow resolutions, even after the President has accepted them. Of all these, there are many instances in the history of the working of the Reforms in Provinces.

Sufficient has been said to show that, so far as the Governors are concerned, the opposite of what was intended by the Act has been the result. Before the Reforms, he was *primus inter pares* among his Members of Council. Now, he is the final authority in cases of difference between the two halves. He has assumed complete control over the services, while his legitimate function was only to see that injustice was not done. While the control of the superior authority has been relaxed and he is no longer responsible in matters relating to the Transferred departments to the Governor-General, and through him to the Secretary of State, he has not surrendered that responsibility to the Ministers to whom the Act intended it to be surrendered. Provincial autonomy has thus meant an increase in the power of the Governor, without a corresponding increase in his responsibility to the Legislature.

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(2) The Executive Council

Only less important than the relation of the Governor with Ministers, is the position of the non-parliamentary Executive in charge of the Reserved departments *vis-á-vis* the Ministers in charge of the Transferred half. The Finance department stands in a different position which will be discussed in the next chapter. The Executive Council consists of Members appointed direct by His Majesty, either from among the Civil Service or from the ranks of Indian public men. In Madras, Bombay and Bengal the Executive Councils consist of four Members, two Civil Servants and two Indians. In the other Provinces, the Councils consist of two members, one from the Civil Service and one Indian.

(3) Ministers and the Executive

It was the clear intention of the Joint Parliamentary Committee that the Reserved and Transferred halves should hold joint consultations. The Committee in fact laid considerable stress on it. The Instructions to the Governors also charged them to this effect "You shall encourage the habit of joint deliberation between yourself, your Councillors and your Ministers, in order that the experience of your official advisers may be at the disposal of your Ministers, and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Councillors." The Secretary of State for India also said in the House of Commons that "it is absolutely essential that during the transitional period, there should be opportunities of influence and consultation, between the two halves."*

What the Joint Committee recommended was only that both the Ministers and the Councillors should discuss jointly, while the decision in their respective spheres should be taken separately. This system was ignored for the first two years

* Speech of Mr. Montagu on the 5th of June 1919, on the second reading of the Bill in the House of Commons.

in Madras, by Lord Willingdon, in favour of a unitary Cabinet. But soon the Madras Government also came back to a dyarchical view of consultation. In other Provinces, the unitary system was not tried and joint consultations were informal. In Bombay, the papers relating to the Reserved subjects were not circulated beforehand, and in the United Provinces, on some matters of importance, the opinion of the Ministry was not taken. Neither half, in fact, was anxious for such consultations.

More important was the question of their mutual relations in the Council. The close association of Ministers with the policy of the Reserved half, which they did not approve and which their party often condemned, did not strengthen the position of the Ministers in the Legislative Council. Many of the Measures proposed by the Executive are naturally unpopular in the Legislature. The Ministers, more often than otherwise, share the views of their followers. And yet they could neither give a lead to their party, nor openly support their colleagues. On one occasion, the Madras Ministers, who had a solid majority behind them, encouraged their followers to throw out a major legislative proposal of the Government with regard to irrigation. The Executive Councillor concerned resigned immediately. But this is the only occasion on which the Ministers have been able, through parliamentary action, to force their influence on their colleagues on the Executive side.

The equally anomalous spectacle of a Member of the non-parliamentary Executive speaking, canvassing and voting against proposals of his popular colleagues, was seen in the U. P. Council. The Madras Ministers during the Irrigation Bill debate, at least kept constitutional propriety by keeping neutral, though their attitude was well known. They neither spoke nor voted against it. But in the United Provinces Council, in the debate on the District Boards Bill, a Member of the Executive Council spoke strongly against the proposals

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of the Minister. On the second day of the debate, the Finance Member openly asked the officials to vote against the Bill.

The Leadership of the Legislatures is given by the Governor to the senior Member of the non-parliamentary Executive and not to the popular Minister who is supposed to command the majority. In the management of the Council, the Ministers have thus become no more than an appendix of the Executive. They are used merely as cover for executive action and, though leaders of a party possessing power in the House, they are often forced to speak for official proposals to which they are known to be opposed, or at least vote in their favour when their party votes against it.

It should be noticed that the non-parliamentary Executive in this connection does not mean the Civil Service. Half the Members of the Executive Councils are Indians, and it is these champions of Reserved subjects, who are more anxious for autocratic authority and for the lessening of the Ministers powers than the Members of the Civil Service. It is not, as has been suugested, a rivalry between the Civil Service and the Ministers, an attempt on the part of the former to regain their position lost by the Reforms. The aggressive champions of executive irresponsibility to the Legislature, have as often been Indian public men as senior Civil Servants. Sir C. P. Ramaswamy Iyer, the Law Member in Madras, invented the ingenious theory that, by virtue of a dispatch of the Court of Directors, all appointments, even in the Transferred departments, were made by the Governor. The Law Member of Bengal, Sir Abdur Rahim, distinguished himself equally by his refusal to be influenced by the Council. The Maharajah of Mahmudabad, who was the Home Member of the United Provinces Council, was as strong an advocate of irresponsibility in the Reserved subjects as the most orthodox Civil Servant.

Though the rivalry was not fortunately on a racial basis, there could be no question as to what the principle involved

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was. The Members of the Executive Council while desiring to sail under the cover of the Ministers' influence in the Legislature, were not prepared to take them into confidence or consult them in matters of importance. The Ministers, on the other hand, chafed at being made tools of by the Executive and at being forced to serve by their influence and their tacit support policies to which they were opposed. This was probably an inherent defect, something which we could not dissociate from a division of functions such as the Act provided. But it should be noted that this continuous rivalry affected the Ministers' relations with the Council and even struck at the root of responsibility to the Legislature.

(4) Ministerial Responsibility

The whole purpose of the division, in fact the whole purpose of the Act, was to make the Ministers responsible for the administration of the Transferred departments to the Legislature. On this point there can be no doubt. We shall now see how far the Minister was, in fact, made responsible to the Legislature. The elementary condition of parliamentary responsibility is that the Minister should be removable by the vote of popular representatives whose confidence he is supposed to possess. Secondly, he should have such effective control of his department as to be able to defend the proposals emanating from, the policy pursued by, and the action taken under that department. A third essential condition is that the Legislature should be given every opportunity to review the work of the Ministers and to approve or disapprove of it. Looked at from any of these points of view, the responsibility of Ministers to the Councils has been a myth.

The Ministers are appointed by the Governor as in all constitutional countries. This does not matter much, because, presumably, the Ministers are chosen from among those who can command a majority of elected votes

in the Legislature. But the problem of responsibility arises when the composition of the Chamber is concerned. The presence of officials and nominated members, amounting to 30 p. c. of the votes, creates a *bloc* which can maintain the ministers, even if they command the votes of only a minority of elected members. It should be remembered that in the 70 p. c. of elected members, a considerable section comes from special constituencies like European Chambers of Commerce and landholders whose votes, irrespective of the question at issue, are at the disposal of the Government. In the Madras Council there are 127 Members : of these 29 consist of nominated officials and non-officials and Executive Councillors. Of the 98 who were elected, the Madras Chamber of Commerce and the Madras Trades Association (both Unions of European merchants) elect 3, though the number of electors is altogether less than 200. The planters (Europeans) have another seat. Then there is one European seat for the Madras Presidency and one for the Anglo-Indians. This gives the Government 6 votes as secure as those of their own officials. Besides this, the landholders, who are created into special constituencies, elect another 6, who in times of need, owing to their financial obligation to the Government, could be as much depended upon to vote in favour of officials like the Europeans and the nominated Members. Thus the representatives of the general electorate consisting of Hindus, Mohammedans and Christians, number only 86, while the Government has, for all occasions a clean unquestioned *bloc* of 41 votes. If therefore, anyone can carry with him 23 elected votes out of the 86, he can be established in authority as a Minister responsible to the Council. His responsibility clearly is not to the elected representatives, but to the Government *bloc* consisting of special interests, officials and nominated non-officials. It is this retainer vote that props up the Ministers and not the votes of the elected representatives.

That this is not merely a theoretical objection can be seen from the analysis of voting on important motions in the Legislative Councils. In July 1927, the opposition in the Madras Council moved a vote of censure on the Ministers. The motion was "defeated," but the division showed that a clear majority of elected Members was against the Ministry. The Ministers have not so far resigned, presumably because their responsibility in the Council is towards the majority which maintains them, consisting mainly of the officials and the nominated members. Again in November 1923, when the question was raised of officials voting to keep in power, Sir Charles Todhunter admitted that whips had been issued asking officials and non-officials attached to them to come to the *support of the Government.** This indentification of the fortunes of the "responsible ministry" with that of the irresponsible half, shows more clearly than anything else, that whatever the intentions of the Act, the Ministry is not responsible to the Legislature and works independently of popular opinion.

Permanent officials nominated to the Council are permitted to take part in the discussion, and vote even on matters relating to the Transferred subjects. If Ministers were removable by the Legislature and the opposition could come into power, this anomaly would not have heen countenanced; because now a permanent official may have to defend in the Council under a new Minister, a proposal which he vehemently opposed under an old one. The size and unity of the official *bloc* often leads also to the curious position of the non-parliamentary Executive being able to command more

* This problem was recently raised in the U. P. Council (4th Nov. 1927), where a *Swarajist* member moved a resolution on the subject. The reply of the Government was that it was too late to rectify the procedure.

votes than 'the responsible Ministers' who may exist solely on the support of the official janissaries. This also is not a theoretical proposition, as the position of the present Madras Ministry shows. The Executive in that Province has an official *bloc* of 40 votes and the Ministers command barely 25, with the result that they have become subordinates to the non-parliamentary half in all matters, including those for which they are supposed to be responsible to the Council.

This problem, of course, would not arise if any party could command in the Council an adequate majority. But this is almost impossible under the present conditions. Taking Madras again, there are only 86 seats for open election out of 127. An absolute majority, which would make the Ministers independent of the retainer vote, means the capture of 65 seats out of an available total of 86, which is more than 75 p. c. Unless a party can secure from the general constituencies (Hindu, Mohammedan and Christian) 75 p. c. of all seats, the chance of a Ministry responsible to the Council and removable by the Council does not really arise. Thus, so far as removability by the Legislature is concerned, Ministerial responsibility is clearly a myth.

Secondly, if the Minister is to be considered responsible to the Council, he must have effective control of the department which he is supposed to administer. The evidence of the Ministers and ex-Ministers clearly shows that this has not been the case. We have noticed, in a previous section, the claim put forward and exercised by the Governor of being the deciding authority in the Transferred subjects. The Ministers, it was said, had only the right of advice which could be rejected for any sufficient reason. The Bengal ex-Minister, Nawab Ali Chaudary, put the position thus in his evidence. "It came to this: while the Minister was responsible to the Legislative Council for his administration, it was the Governor who had the final decision on almost all questions, though he was very

little in touch with the Council."* Parliamentary responsibility of Ministers can only be a sham, when the effective authority of the department rests not with the Ministers, but with a Governor whose actions are declared by rules to be above criticism by the Legislative Council. It is, perhaps, this consideration which led the Madras Ministers, in replying to the vote of censure in November 1923, to repudiate altogether the doctrine of responsibility to the Council. The Rajah of Panagal, the Chief Minister of Madras, declared in his speech that as he was appointed by the Governor, he was responsible only to the Governor. This constitutional doctrine that the Minister is responsible not to the Council but to the Governor, though a complete perversion of the declared purpose of the Act of 1919, and amazing from a Minister who held the position, ostensibly because he was the leader of the majority party in the Councils, was no doubt in accordance with the facts. It was to the Governor and not to the Council that the Minister considered himself to be responsible. From a parliamentary leader, the Dyarchical Minister had sunk to the position of a minor official.

The third condition of effective Ministerial responsibility is that the Legislatures should have full facilities for expressing their disapproval of the policy of the Ministers. But the legislative procedure in the Provinces, instead of giving importance to what is the charter of its influence and authority, has under official Presidents refused facilities for discussion. In Madras, when Sir P. Rajagopalachari was President, he admitted a motion of no-confidence in the Ministers. But in Bengal, such a motion was declared *ultra vires* by the President. The only opportunity afforded by the Act, and by the rules framed thereunder, for removing unpopular Ministers is to

*Written evidence before the Muddiman Committee, p. 218, vol. 5.

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reduce their salaries at the time of budget demands. Even in Provinces where the motions for expressing lack of confidence are permitted, the rule is not established that these should have precedence over private resolutions.

Thus, from every point of view, Responsible Government even of a partial character, which was the purpose and object of the Reforms, has failed altogether to materialise. The size and permanence of the official *bloc*, and the special interests which are bound to support the Executive at all times, seriously restrict the value of a majority in the Legislature as an expression of popular confidence. Responsibility to a majority consisting mainly of this *bloc* is not responsibility to popular representatives but to official nominees. This was not and could not have been the purpose of the Act. As it is, with the Leadership of the House in the Executive Councillor and the Ministers themselves moulding their policy in order to secure the good-will of the official *bloc*, and the Councils unable to enforce their nominal authority, the Ministers have become subordinate administrators, taking their orders from the Governor and depending for their existence on the good graces of their colleagues. It is clear, in this particular matter, which was the essential part of the Reforms of 1919, that the Act was worked by the Executive in a spirit which travestied its intentions. This is but another instance, of which many can be found in British Indian history, of the local authorities taking away what the Parliament had given.

It was again the clear intention of Parliament that the Ministers should be jointly responsible for the administration of the Transferred departments. A true system of parliamentary government involves the collective responsibility of the Ministry and is clearly against separate and departmental responsibility. The Joint Parliamentary Committee was emphatic on the point. "The Committee think it important" they said "that

when the decision is left to the Ministerial portion of the Government, the corporate responsibility of the Ministers should not be obscured . . . In cases which are of sufficient importance to have called for discussion of the whole Government, they are clearly of opinion that the final decision should be that of one or the other portion of the Government as a whole." The Act itself, section 52 (*3*), lays it down that " in relation to Transferred subjects, the Governor shall be guided by the advice of his *Ministers* unless he sees suffiicient cause to dissent from *their* opinion. " This use of the plural, in conjunction with the Joint Committees' view, leaves no doubt that the principle of joint ministerial responsibility was laid down in the Act. But the rules of Executive Business were framed in all the Provinces—with the exception of Madras during the first two years—on the assumption that the Governors should act separately and and not jointly with the Ministers. In Madras, Lord Willingdon appointed a Chief Minister and it was understood that the collective responsibility of the Ministers was enforced at least for a time. In the United Provinces, the Ministers who were appointed for the first time protested against the idea of departmental responsibility and Sir Harcourt Butler yielded to their representation. But Sir William Marris, according to the evidence of Mr. Chintamani, considered it a deviation from the spirit of the Act and separate responsibility was enforced after the resignation of Mr. Chintamani and Pandit Jagat Narayan.

It must be recognised that there were many obstacles to this idea of collective responsibility in the Provinces, where no party had a sufficient following as to be able to command a majority. In the Punjab and in Bengal, where the communities were fairly balanced, it was clear that Ministers had to be selected from both the parties. To force identical responsibility on Ministers whose principles were different and whose

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supporters were fighting against each other in the Council, would have been troublesome. But with some insistence on the part of the Governor, as in Bengal, such a Cabinet of moderate Hindu, Mohammedan and Sikh Members in the Punjab would not have been altogether impossible. In any case, even in Provinces where such difficulties did not exist, as in Bombay, the Central Provinces and the United Provinces, the principle of collective responsibility was not accepted by the Governors, who dealt with each Minister separately and without reference to his colleagues.

Thus, so far as Ministerial responsibility is concerned, the whole scheme was defeated by the tendencies noticed above. The Ministers never really had authority. They were not directly responsible to the Councils. Their joint responsibility was not enforced. It is these facts that made the Non-co-operators declare that they would not accept office unless there was real responsibility. To accept ministerial office under the dyarchical system was to convert oneself into an instrument of Executive Government, rather than serve the public as its chosen representative. It is not only the Non-co-operators who saw the problem from this prospective. Mr. E. Villiers, who was the representative of the European community in the Bengal Legislative Council, in refusing to offer himself as a candidate for the third time, issued a manifesto in which he stated his point of view with regard to Ministerial responsibility. He said "instead of teaching her (India) responsibility we are teaching her irresponsibility. Until the Reforms are re-cast, until they are applied to the Provinces as separate States, *until such subjects as are Transferred*—no matter how small or how unimportant they may be—*are transferred lock, stock and barrel, uninterfered with by the Governor and uninfluenced by Government votes* in the Council, . . I see no hope for the success of the Reforms." When it is remembered that the whole system of

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Dyarchy was invented to ensure Ministerial responsibility to the Council, and to give the Councils and their agents, the Ministers, effective power over specified subjects, it will be realised how the intention of Parliament and the purpose of the Act was thwarted by the Rules made by the Government of India, and by the Governors and by the constitutional practice established in the Provinces by the civilian administrators who were in charge of them.

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Chapter V

DYARCHY IN THE PROVINCES—(*continued*)

(1) The Legislature and the Executive

When the authority of the Legislature, in its own special field of Transferred subjects, is so restricted, it is not possible that it would have effective power in those important departments of Government reserved for the Executive Council. The Reserved subjects, as we noticed, include all the important branches of executive government, such as Revenue, Law and Order, Finance, Justice and Home administration. Over these the direct authority of the Council was limited to voting on demands. This control of the purse, in the ordinary course of things, would have been an important power, but it was greatly restricted by the right of certification, expressly granted by the Act to the Governor. Besides this right to cut down the demands for the executive side, the Legislatures have also the power to discuss, interpellate and move resolutions on all Provincial matters. Thus, though the authority of the Governor in Council, and through him of the Secretary of State, continued unimpaired, as the Act itself stated, it would be untrue to say that the Legislatures had no influence on the executive side. Besides, the Councils elected standing Committees—one of which, the Finance Committee, was statutory—which were in close touch with the administration and influenced the decision of the Executive by the expression of the views represented in the Council. These three methods of action became popular in the Councils and

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were used effectively to press the Indian point of view on the administration.

The power of voting on grants, though the most important, and within its limits most effective, was conditioned by two facts ; one was, it could be used when only the Government asked for money either at the budget time, or on a supplementary grant. As this was ordinarily only once a year, the right of controlling the Executive through the purse was not a weapon open to the Council at all times. The second restriction was the right of certification vested in the Governor.

Budget procedure is regulated by the Rules made under the Act and by the Standing Orders of the Council. The Budget is introduced by the Finance Member on a day previously notified, usually at the end of February or early in March. After two or three days' interval, given to the Members to study the provisions, there is a general discussion of the Budget for three days. After this, the Members send in notices for omitting or curtailing particular items or totals of expenditure in any part of the Budget which is open to the vote of the Council. After a further interval of a week, the Executive Councillors and the Ministers responsible for the departments concerned move their demands, when the motions for omission or reduction are discussed to express the views of the Council on the policy followed by the department. These discussions continue for a maximum of 12 days and it is during that time that the Council assumes the aspect of a " grand inquest." In Madras, 100 motions of this kind were discussed in 1923-24. During the first four years, no less than 753 motions for reduction were discussed out of a total of 3,393 motions admitted for discussion. In Bengal, this power was used with equal effect and steady pressure was exerted on the Executive to conform to the wishes of the Council. The Bombay Government notes the same fact in its report to the Government of India on the working of the Reforms. It states—

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"The most important example of the way in which the Legislative Council have forced Government to conform to their wishes in the matter of retrenchment, was the 60 lakhs cut from the Budget of 1922-23. The manner in which they attained this end was eminently practical. Instead of attempting to reduce the total by rejecting or reducing various budget demands in detail, a course which would have involved them in great difficulties and split their own ranks over the interests affected, they wisely took the course of rejecting the Entertainments Tax Bill and threatened the rejection of the Stamp Bills if their demand for retrenchment was not substantially met. Government thereupon promised to cut it down by 60 lakhs—a promise which has been more than fulfilled."*

The right of certification, which is vested in the Governor, is in the nature of things an extraordinary power. It has been used and liberally used in all the Provinces, but it is impossible to certify every vote that is reduced or rejected. Though a serious restriction on the rights of the Council, certification cannot affect the influence of the Legislature on the Executive exercised through a strict control of the purse. That this right has been used wisely by the Council is recognised by all Provincial Governments. The Government of Bombay, under Sir George Lloyd, which of all the Provincial administrations was, least friendly to the Reforms, states that "there have been no important instances in which the Legislative Council have abused the powers" of financial control. It is true that in Bengal, the non-official parties joined together to throw out the whole budget; but the political conditions of that Province—owing especially to the arbitrary measures taken under the Bengal Ordinance—necessitated the utmost use of the constitutional powers of the Legislature, in order to demonstrate to the Executive Government the protest of the people against that particular policy.

*Views of Provincial Governments 1923, p. 68.

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Motions for token cuts have been the common method for expressing the popular views with regard to the administration of departments. They have provided ample opportunities for criticism of Executive action as well as of Government policy. The Government was enabled to find out the strength of popular feeling on particular questions and the Members came often to appreciate the Executive point of view. On the whole, it is undeniable that the Councils have used their power of voting on demands with moderation and wisdom, and directed it mainly to pressing the popular view and influencing the Government in administration.

(2) Resolutions and Interpellations

Besides the great influence the Council thus exercised by its rights with regard to taxation of appropriation, there was the more popular and easier method, open at all times, of raising discussions on resolutions and on motions of adjournment. Non-official Members in all Councils have used liberally their powers with considerable benefit to the public. In the first Reformed Councils, there was a noticeable tendency to put down motions even on matters of routine and detail ; but with greater experience, the Members have concentrated their attention to important matters of policy. This is evidenced by the fact that there has been a considerable decrease in the number of resolutions tabled for discussion. The use to which the Members have put this power and the importance which they have attached to it, may be judged from the range of subjects discussed. Among the important resolutions discussed and carried in Madras, were those asking for the enfranchisement of women (1st April 1921), the re-settlement of Provincial contributions (2nd of April), the introduction of permanent settlement of land revenue (14th of December 1921), the appointment of a Retrenchment Committee (16th Sept. 1922), and the increase in the pay of village head-

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men. The resolutions discussed in all Councils, dealt with important questions of public policy like the separation of judicial and executive functions, encouragement of temperance, the grievances of railway passengers, &c. The Provincial Governments were fully alive to the importance of conciliating the views of the Councils in these matters, wherever possible. Of the 109 Resolutions that were passed in the Bengal Council from 1921 to 1923, the Government took action in accordance with the recommendations on 51 cases and part action on 29. This is true of all Provinces. While the Provincial Governments have justly refused to consider the resolutions to be mandatory, they have all along tried to give effect to them as recommendations emanating from popular representatives on which action should be taken, if possible.

The right of interpellation has been another potent instrument in the hands of the Council. Though from its very nature, it could not be put to the same use as the right to move Resolutions, in pressing upon Government questions of policy or expression of popular discontent or disapproval, the power of putting questions to the Executive, on matters of daily administration, has been of great value, especially in bringing to the notice of the higher authorities, the petty oppressions and malpractices of the lower ranks of officials. By this method, the Council was enabled to keep a strict watch on the administration. It is true, that in the first sessions of the Reformed Councils, the Members asked questions, the reply to which benefited no one and cast unnecessary burdens on the departments concerned. But with growing experience and strict enforcement of Standing Orders and the discretionary powers vested in the President, this right has gained in value as a check on the administration.

In these matters, the Councils have been able to use their authority in full for two reasons. First, because the leading

Members in the new Legislatures had considerable experience of these powers in the Minto-Morley Councils. Resolutions, on important matters, constituted the chief activity of the Councils before 1920. The constitutional practice relating to them was widely known and appreciated and the increased opportunities given by the Councils were fully utilised by the Members. The same could be said about the right of interpellations. The motions of adjournment were altogether new ; and as a result, there was considerable misunderstanding as to their use. The Presidential ruling, that the adjournment of the House could not be moved unless the matter was one of urgent public importance, was not appreciated in the beginning, when Members were anxious to call the attention of the Government to some crying public need, by resorting to this method. After the first two sessions of the Council, the limitations of the procedure of adjournment were fully recognised, and their value was thereby increased by being confined to what is really of urgent public importance.

(3) Committees

The influence of the Councils on every sphere of Government activity would tend to become spasmodic and periodical, if it were exerted solely through questions, resolutions and annual votes on demands. The continuity of this check was maintained by the system of Committees, which came to be an important feature of the Reformed Government. Both the Councils and the Administration recognised in the Committee system, a fruitful method of associating non-officials with Government, whereby the former could be familiarised with the problems that affect the Government and the latter could realise the popular points of view. Such Committees are, mainly, of two kinds :

(i) Standing Committees elected by the Council or

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appointed by the Government from among Members of the Council :

(ii) Committees appointed by the Government, at the instance of the Council, to further some scheme or enquiry which the Council deems to be important.

Of these Standing Committees, the only one which is statutory, is the Public Accounts Committee constituted under Rule 33 of the Council Rules, for the purpose of dealing with the audit and appropriation accounts of the Provinces and other matters as may be referred to it, by the Finance Committee. The Public Accounts Committee consists of 10 Members, of whom 7 are elected and 3 are nominated. Of the work of this Committee, the Madras Government states " Its most important resolutions dealt with the public works department and the finances of local bodies. With reference to the first, it emphasised the need for closer examination by the Finance department with a view to check such irregularities as starting works without estimates, exceeding estimates without sanction, and the late payment of bills. As regards local bodies, the Committee took a very serious view of the growing practice of overdrawal of accounts ..."

The Finance Committee deals with current and proposed expenditure. This consists of 9 Members, of whom 3, including the President who is the Finance Member, are nominated by the Government, while 6 are elected by the Council. The Finance Committee is the most important of all the Committees of the Council. Before it are placed, for discussion, proposals involving new or recurring expenditure, before they are included in the Budget. The discussion in the Committee helps the Finance Member to judge the temper of the House on his proposals and he gets a chance of accommodating them to the point of view of non official Members without open conflict in the Council. The Finance Committee

is even of greater importance from the popular view-point, because it enables the leading Members of the Council to study all schemes of new expenditure before they come up for discussion in the Council.

The departmental Committees appointed to advise the administration could not be said to have met with conspicuous success. These Committees, which were appointed to all important departments, consisted of a majority of non-officials. Such Committees have been of value in providing selected Members with knowledge of departmental problems, but otherwise, they have had no influence on the course of administration. The point of view of the Government with regard to these Committees may be inferred from the view expressed by Sir Harcourt Butler and his Council in the United Provinces. "The conclusions of the Governor in Council on the Standing Committees system generally are, that it ought to be absolutely confined to the subject of finance and public accounts. There are clear indications that its extension into the administrative departments will mean collision and result in the duality and confusion which attends the working of a similar system in France." The Provincial Governments have also, on occasions, found it advisable to appoint Committees of the Council to study projects of legislation which they have in view, both in order to canvass support and to know the trend of popular opinion.

From the point of view of the influence of the Legislature over the Executive, the Committees, appointed in pursuance of resolutions and interpellations in the Council, are more significant. Such Committees are appointed under popular pressure and the purposes for which they are constituted is either to examine some official policy, or to suggest ways and means for reducing expenditure, or to go into complaints of serious public importance. Most Councils put considerable pressure on the Government for the reduction of expenditure,

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and the Committees appointed to go into the questions are naturally inquisitorial in their methods and uncompromising in their attitude towards public expenditure. In Madras, the Committee system seems to have specially flourished. Of the Committees appointed as a result of resolutions and interpellations in Council, the following are the most important. The Board of Revenue Reorganisation Committee, whose main recommendations have been given effect to; the Famine Code Revision Committee, the Education Reorganisation Committee, the Andhra University Committee, the Srirangam Temple Committee and the Cauvery Delta Irrigation Committee. The increasing use of these Committees by the Council, as well as by the Government, has had the result of bringing the administration of the Provinces more into touch with the people and less impervious to non-official views.

(4) The Party System

The influence of the Council on the administration would have been much greater, if the work in the Council had been directed by well-organised parties. The only organised party in Indian public life has so far been the *Swarajists*, the main plank in whose platform was non-acceptance of office and organised obstruction of Government work. Naturally, the object of such a party where it had an absolute majority—as in the Central Provinces in 1924-27—would be to make the administration of the Transferred departments, through the Ministers, impossible. That was what happened in the Central Provinces and in Bengal. Where the *Swarajists* could not command a majority, their influence as a party on the administrative work of the Government would be negligible. Apart from the *Swarajists*, there has been no organised party in the English sense, in any of the Provincial Councils. The Ministers selected by the Governors had factions to support them, based mainly, as in the Punjab, Bengal and Madras,

on communal groupings, more than on political opinion. But it must be remembered that Dyarchy, as worked in India, did not postulate a party system : more, it made the growth of party system impossible. The Members are elected on programmes which embrace not merely the subjects under the administration of Ministers, but those under the Reserved half. The line of demarcation, therefore, often cuts through the supporters of the Ministers and their opponents in matters relating to the Reserved subjects. Again, even if the Ministers are the leaders of a party, they cannot, in important matters, voice party opinion, or even give a lead to their followers on matters affecting the Reserved side. Thus, it often happens that the Ministers vote with their colleagues on the Reserved side and suffer defeat along with them, while the party is victorious. It is impossible to conceive a party system in which the leaders are defeated but the party remains victorious. In the Oudh Rent Bill in the U. P. Council, the Liberal party, whose leader was then Minister, refused its support to the Government. The leader remained neutral and continued to be Minister, while the party voted against the Bill. The party system is also rendered impossible by the theory of individual responsibility of Ministers which, as we have noticed, was the accepted principle in the Provinces. When two Members of opposing views are nominated Ministers in a Province, their parties would not support a common programme, and the defeat of the one would not mean the defeat of the other. Thus, besides the Opposition, there will be at least two groups which will be partially in opposition and partially in office. Besides, party system can develop only when there is a removable executive. When even the Ministers are not in practice removable, because of the retainer-vote of the Government which is at their disposal, the theory of party government breaks down. Thus, there was never an opportunity for the

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development of a grouping based on opposition or support to the Government in the Councils. The work in the Councils was, therefore, unorganised and in consequence did not have as much influence as it could have had.

CHAPTER VI

FINANCE AND THE COUNCILS

WE have traced in outline, in the second chapter, the financial system that was established in the Provinces. It may be summarily stated as a division of the revenue heads into Central and Provincial: the Central revenues being collected and expended by the Government of India and the Provincial heads being handed over to the Provinces for their expenditure. The main heads of revenue allocated to the Provinces were, receipts accruing from provincial subjects, the proceeds of taxes which may be lawfully imposed in the Province and a share in the income-tax collected within the Province. All the other sources of revenue, such as customs, railway earnings and land revenue, were reserved for the Government of India. As the Goverment of India was faced at the outset of the Reforms with a large deficit, it was decided that the Provinces should pay contributions in proportion to their increased revenue, to enable the Central Government to balance its budget. The share of each Province was settled by a Committee of which Lord Meston was President. The contributions fixed were as follows :

Madras	...	348 lakhs
Bombay	...	46 ,,
Bengal	...	63 ,,
United Provinces	...	240 ,,
Punjab	...	175 ,,
Central Provinces	...	22 ,,
Assam	...	15 ,,

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It was further provided (Devolution rule 18) that when the Government of India's revenues showed improvement, a reduction would be made in the contributions of Provincial Governments who had under this award to pay more than others. The finances of the Government of India continued to be extremely unsatisfactory till 1926, and the hoped for reduction did not take shape till that year. The Provinces, therefore, especially Madras and the United Provinces, which between them paid over 60 p. c. of the contributions, started with a heavy handicap. In criticising the Meston Award, at the time when it was under discussion, Sir Harcourt Butler, who was Lieutenant-Governor of the United Provinces, pointed out that it was unwise "to commit the new system of government beforehand to a preliminary agreement which, so far as he could see, will hamper the natural development of the Province for years to come." This pessimistic anticipation was fully justified by events. For the first 6 years of the Reforms, the unjust levy continued and left the Provinces without adequate funds for the developments which the Reforms had led the public to anticipate. What had appealed most to the public, with regard to the Act of 1919, was the fact that "the nation-building" departments ; *e. g.* education, sanitation and local government, were handed over to the Ministers. It was naturally expected that progressive schemes for which the old Councils had been clamouring would now be taken up: that the educational system would be reorganised, that primary education would be made free and compulsory, that greater attention would be paid to rural and urban sanitation, and that encouragement would be given to Indian industry and agriculture. The Ministers who were appointed were all committed to schemes of this kind. But it was soon found that there was no money available for developments in these departments. The Meston Award had killed the child even before it was born.

The system of financial administration in the Provinces also contributed to the difficulty. The Joint Select Committee did not accept the proposal of a divided purse and left Finance as a subject common to both sides. Rule 36 (I) of the Devolution Rules made Finance a Reserved subject under the control of an Executive Councillor. The Finance department by the nature of its functions is more powerful than all other departments. It has a practical veto on the schemes and proposals of other departments under rule 37 G iii which charges the department "to examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates and to decline to provide in the estimates for any scheme which has not been so examined." Clearly, it is in the departments of Education, Sanitation, Industries and Agriculture, that proposals, involving new expenditure, originate, more than in the departments of Law and Order and Revenue. The Transferred departments are therefore practically placed under the supervision of a Member of the Executive Council, who is not likely to be in sympathy with the objects that the Ministers have in view. This is what led all the Ministers to complain of before the Muddiman Committee, that the Finance department had greatly hampered the working of the Reforms. Sir K. V. Reddi, in his memorandum submitted to that Committee, complained that "the Ministers were unable to carry out schemes costing very little money and for the carrying out of which they had the mandate of the country and the Legislative Council, because the Finance department and the Finance Member made it impossible, on the strength of the powers vested in them.

"The position of the Finance department on the side of the Reserved half, handicapped the Ministers and thereby the activity of the Legislatures in another way. All the schemes of the Transferred departments were fully known to the Executive Council, while the proposals of the Reserved half remained secret. The Reserved half would therefore know what sums are

available for re-appropriation. With the knowledge they possess of the existence of funds, the Members of the Executive Council apply for re-appropriation at a comparatively early stage. The Executive Councillors, therefore, get larger sums by way of re-appropriation and are thereby enabled to carry their schemes through."*

Thus burdened with a system of contributions which left the Provincial exchequers very little balance, and a Finance department which exercised effective control over all new schemes and discouraged all proposals if they involved expenditure, the Councils and the Ministers could not carry through schemes of improvement which they had promised the country. The Finance department was the nerve system of the whole scheme: that nerve system was not only weak, but diseased; weak, because the Meston Award had not worked out satisfactorily, owing to the continued deficit in the finances of the Central Government; and diseased, because of its permanent alliance with the Reserved half. Much of the difficulties in the working of Dyarchy must be traced to this.

One other matter, relating to the failure of the Reformed Government to come up to the anticipations aroused by it, must be noticed here; that is the position of the permanent services under the Reforms. It was expected that a noticeable breach would be made in the wall of bureaucratic government by the changes introduced in the Provinces. Not only the people of India, but the Services themselves believed it to be so. In the first two years of the Reformed Government, there was a remarkable fall in the number of candidates for the Indian Civil Service. In the examination of 1921, out of 86 candidates only 26 were Europeans. There were 16 appointments and only 3 were Europeans, one of whom almost immediately retired from service. The number of retirements on proportionate

* Sir K. V. Reddi's evidence, vol. 5.

pension was also large. The extent of the alarm that was felt among the officials, at the possibility of their interests being subordinated to the demands of India, may be realised by the measures they took. They formed associations to protect their interests by the same kind of methods, as Sir William Joynson Hicks explained in his speech in the House of Commons championing the Services,* "as those by which Trade Unionists in this country band themselves together to protect themselves from hardship."

But the ground that was lost was soon gained. Within the first two years, the Services consolidated their position and were once more in supreme authority. This was done by three methods. The Ministers were not given authority over the Imperial Services in matters relating to (*a*) promotions, (*b*) transfers, and (*c*) disciplinary action. As we have noticed, the Governor was specially charged to see that the officials received fair play, an instruction which was interpreted so liberally by the authorities, as to deny the Ministers control over the Services which served under them. The right of appeal to the Governor-General in Council and the Secretary of State was maintained as before. The cumulative result of all this was that the Services continued undiminished in authority and unimpaired in their prerogatives.

Much confusion and friction had been foreseen in the relations between the Ministers and the Services. The Government of India, in its letter of March 5th, 1919, gave a picture of what might happen under the Reforms. "Ministers will be taking over departments staffed by public servants, Europeans and Indians alike, with no personal experience of popular government, who may tend to be impatient of new methods and unappreciative of changes in policy. Ministers may be apprehensive of obstruction and intolerant of the rigidity of official

* August 2, 1922.

methods. We recognise that it is possible, that in the exercise of their responsibility and from the best of motives, the Ministers may adopt a policy which the Service feels, it cannot consistently with its conscience and self-respect, carry out. Ministers may, again, naturally prefer their own agents and be disposed to treat lightly vested claims to important or desirable appointments. Officers who personally render themselves unpopular will be treated with less consideration than they sometimes receive now. Disciplinary cases will present a difficulty and a Minister's handling of them will be more closely scrutinised than if the decision lay with an official. In short, Ministers and Government servants will take time to shake down into each other's ways. It would be foolish to imagine otherwise."

These predictions have not been fulfilled, not because the Ministers and Civil servants took no "time to shake down into each other's ways," but because the Ministers were transformed from effective political chiefs to nominal figure-heads. The relations between the Civil Service and the Ministers have been extremely cordial; not one of the ex-Ministers who gave evidence before the Muddiman Committee has complained of the attitude of his civilian subordinates. The reason is that, after the first shock, the Civil Service set itself to consolidate its authority, which it did effectively in the course of the first two years of the Reformed Government.

Thus, so far as the working of Dyarchy is concerned, the hopes that have been based on it have not been realised in its executive and administrative aspects. Ministerial responsibility was denied from the beginning. The position of the Finance department and the undiminished authority of the Services allowed the Councils very little effective power, though their indirect influence on administration was considerable. In

short, so far as the executive and administrative sides are concerned, the Councils have been merely a continuation of the Minto-Morley Reforms and nothing more; and, even in the Transferred departments, the position approximated more and more, as time went on, to the earlier Councils than to the Parliamentary Government which it was supposed to inaugurate. In the Dyarchical animal, which was a cross between the irresponsible Advisory Councils of the Minto-Morley type and responsible Parliamentary Government, the characteristics of the first become more and more clear with age, though the colour and shape remain that of the second.

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Chapter VII

THE COUNCILS AND THE PEOPLE

So far, we have been concerned with the relations of the Council with the Government, in both its Transferred and Reserved sides and with its machinery, the Services. A no less important question is the relation between the Councils and the Public. A parliamentary institution stands midway between the government which controls it from above and the people below, who elect the members with a view to watch, influence and direct the executive. The relations with those in authority form but one aspect of the problem. The relations with those below—those whose interests the Councils represent and those from which they derive their authority—are of equal importance in judging the work of a representative system.

The Reforms had a direct and immediate effect of enfranchising a considerable section of the Indian people. Altogether about 5,000,000 persons were given the right to vote and this was a change which was bound to have far-reaching consequences. It is true, that in the first election, a very large percentage of voters did not take part, but that in itself was an evidence of political awakening, because, the boycott of the elections was not due either to apathy or to ignorance, but to the intense political propaganda of Mr. Gandhi's non-co-operation movement. It was a conscious act of refusal which was, in itself, a determined expression of the will of the electorate. The second

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and third elections which took place after the breakdown of the non-co-operation movement, were characterised by party propaganda in the country, and the popular interest aroused, justified the expectation that the masses would soon learn the value of the vote. The experience of the elections shows that political education through voting has made considerable progress in India. In the general election that followed the first Councils, many of the most prominent politicians, who, either as Ministers or as Members of the Councils had acted against popular opinion, lost their seats. Among those whom the electorate rejected were men like Sir Surendranath Bannerjea, one of the founders of the national movement, whose activities in the Reformed Council made him unpopular, Paranje Pye, Minister of Education in Bombay, and Sir Chimanlal Setalwad, Vice-chancellor of the Bombay University. In the elections in 1926, the voting was even more remarkable as an assertion of the will of the electorate on the policy of Ministers. In Madras, during the first two Councils, the South Indian Liberal Federation, representing the non-Brahmin party, was in power. It commanded an effective majority in the Council. The Ministry which was put in power had the enthusiastic support of the Council, and their administration of the Transferred departments proved a striking success. The social legislation which they undertook and carried through the Councils, was welcomed by the public, and their activities in educational and industrial fields were on the whole considered beneficial and in the interests of the people. They were responsible for such far-reaching reforms as the Hindu Religious Endowment Act and the Madras University Act. The former placed the accumulated wealth of Hindu temples and monasteries under secular control, while the latter converted the University of Madras from an examining body into a teaching institution. But in spite of their success in adminis-

tration and their achievements in legislation, popular opinion turned against them, on the ground that they were not sufficiently strong to influence the Executive in its general policy. The Ministry was suspected of being too much influenced by the Reserved side and it was held responsible to the public for the actions of the whole Government. The Ministers were of course powerless to influence the decisions of the Government on important matters affecting law and order, revenue and other subjects administered by the Reserved side. They were also suspected of being lukewarm in championing public rights against the encroachment of the Executive. The result was that this party, which had an overwhelming majority in the two previous Councils, was practically annihilated at the polls in the general election of 1926.

The real difficulty of the relations between the Councils and the People lies in the communal grouping of Members. We shall have something to say of the system of communal representation in a later chapter. What is of importance here is that a large body of the Members of the Council do not represent the general people but special communities. In every Province, there is a solid block of Members elected to represent communal constituencies, whose responsibility is towards the community which elects them. This sectional character of representatives affects their attitude towards public questions which they approach from the point of view of the communities they represent. Their activities inside and outside the Council tend to be sectional, with the result that political discussion in the country goes on communal rather than national lines. In the general scheme of political education of the people, this is undoubtedly a great disadvantage.

Another fact which handicaps the effective political education of the people, which would have resulted from the Reforms, is the artificial character of the Provinces. The

present division of India into Provinces rests on historical accidents. Their boundaries take neither geographical nor ethnical considerations into account. The districts jumbled together into one administration, with the name of a Province or a Presidency, have often little in common in economic interests. Their populations speak different languages and often are of different races. Thus in Madras, there are 3 important languages, Tamil, Telugu and Malayalam. The Tamil population, comprising 18 million people, occupy the area south and west of Madras, while the Telugu population live in the northern districts. The Telugus have been demanding the constitution of their districts into a separate province for a long time, and there is much to justify their demand. The Telugu population—over 20 millions—is homogeneous in race. They occupy a well-defined area and speak the same language. But the Presidency of Madras jumbles both these people together, to make an unwieldy whole, creating thereby jealousies and antagonisms between the people. Again, the Province of Bihar and Orissa, as its very name shows, is an artificial creation. The Oriyas are a different people and their area is also clearly marked out geographically. The Presidency of Bombay consists of 3 clearly separable areas with distinctive populations. The Mahrattas, in the south, form a compact nationality with Poona as their capital. The Gujuratis form a no less important population, and they have also a capital at Ahmedabad. Sind is no more connected with Bombay than Aden is, but it is an integral part of the Presidency. The artificial character of these divisions makes political work in the Provinces well-nigh impossible. Except Bengal, the United Provinces and the Punjab, every Province has at least two important languages spoken by the people. Political propaganda and work among the people can only be through their mother-tongue and the present divisions render that important aspect of representative government extremely difficult.

But in spite of these difficulties, the political education of the people has made marked progress during the last 8 years. The discussions and debates in the Councils are reported with great prominence in all the papers, both in the Indian and English languages, and are read, studied and commented upon even in the villages. The popularity and circulation of the vernacular newspapers have much increased during the period of the Reforms, and whatever be the value of the comments offered by them, the propagation of political news, especially of the discussions in the Councils, has had the benefit of interesting the large class of vernacular-educated people in political questions.

A more important instrument of political awakening, has been the new system of local self-government. From the time of Lord Ripon's Act, which really laid the foundation of representative institutions in modern India, local self-government has been a great source of political experience. Just before the Reform Act came into operation, the local boards and municipalities had been reconstituted on a more popular basis. Official control over them was relaxed and they were placed under non-official chairmen. As a result there was, as the Madras Government noticed in their memorandum presented to the Muddiman Committee, "an awakening of civic consciousness." The capture of municipalities by advanced political parties, like the *Swarajists*, also goes to prove that the interest in local administration is increasing, especially as a training ground for the higher politics of the Councils. Many of the leading Members in the Councils are also members of district boards and municipalities, and successful work in local government, is a claim which is valued by the electors to the Legislature. It is also a significant fact that one of the first questions, the Ministers took up on assuming office under the Reformed Government, was the reorganisation of municipalities and district boards. In the Punjab, three important Acts, the

Small Towns Act, the Village Franchise Amendment Act, and the Town Improvements Act, were passed with the object of disseminating a democratic and self-reliant spirit among the people, and of setting up a better organisation for the purposes of sanitation and public health. In the case of municipalities and district boards, the franchise was also lowered, and the Punjab Government recognized that the movement towards the democratisation of local bodies was accelerated by the introduction of the Reforms. The Bombay Council passed, in 1922, an Act which extended the franchise, removed sex disqualifications and gave increased powers to local boards. In Calcutta, an important Measure was introduced by Sir Surendranath Bannerjea and passed by the Council, democratising the Corporation and removing sex disqualification in municipal franchise. In the United Provinces also, a Measure was enacted reducing municipal franchise and a District Board Act liberalising rural bodies. In Bihar and Orissa, three important Measures dealt with the problem of local government on a similar basis. The Reformed Governments could not, therefore, be accused of neglecting local self-government, and this was, to a large extent, due to the realisation by the Ministers of the important part played by the district boards and municipalities in influencing local opinion.

The close contact between the people and their representatives in the Council, could also be seen in the legislation which the Ministers undertook or which the Reserved side introduced, as a result of pressure by the Members. The claims of urban and rural tenants were voiced loudly in the Councils and found general support. The Madras City Tenants Protection Bill of 1921, and the Calcutta Rent Act of 1923, show that the interests of the poorer classes were not neglected by the Councils. In Madras, a Bill to protect the tenants in Malabar was introduced by a non-official member and was passed by the Council with the support of the Ministerial

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party. But the Governor refused his sanction and appointed a Committee to go into the whole question and report with a view to official legislation. In the United Provinces also, the Council took up tenancy legislation and passed the Oudh Rent Act, giving the tenants of the Talukdars a life-interest in their holdings with 5 years reversion to the heirs.

Another group of important legislative enactments initiated by Ministers dealt with education. The whole country had demanded, for a long time, a change in educational policy with a view to making it more Indian in outlook. The officialised Universities were denounced as charnel-houses of Indian freedom and were looked upon with distrust by all political parties. Naturally, the Indian Ministers utilised the very first opportunities afforded to them to reform the Universities and liberalise their constitutions. In Bengal, this was not possible, because by the Government of India Act, the Calcutta University was considered a Central subject for the first five years. The Madras University was reorganised by the Madras University Act of 1922. Until then, the University was solely an examining board which did not concern itself with teaching or with the administration of colleges. The Act popularised its constitution and introduced facilities for direct teaching and for maintaining close contact with colleges. In the United Provinces, the Allahabad University was re-constituted, and two new Universities, those of Lucknow and Agra, were established. In Bombay, an important step was taken towards the introduction of compulsory primary education.

Far-reaching social legislation was also attempted in some Provinces. Of these the most important Measures were the Bengal Children's Act, 1922, and the Hindu Religious Endowment Act of Madras. The Children's Act of Bengal followed the same lines as the English Acts. Though the Government had not included in the Bill a provision empowering rescue

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officers to rescue minor girls from houses of ill-fame, the non-official majority in the Council moved an amendment and carried it in spite of official opposition. It was a reform, the need for which had long been felt, but which it would have been impossible to pass in the Minto-Morley Councils, where the opposition of the Government was sufficient to kill any proposal.

The Hindu Religious Endowment Act of Madras was an almost revolutionary change in social reform, which was welcomed with enthusiasm by its supporters, and attacked as violent, unconstitutional and exproprietary by its opponents. As this is a type of important legislation which the British Government could not have undertaken at any time, it is necessary to examine its principles to understand the attitude of the new Councils to social and religious reform. The Hindu temples and monasteries in South India possess vast properties, either through endowments or through the accumulation of income derived from pilgrims. The *mutts* or monasteries which were originally endowed for charitable and religious purposes had come, in course of time, to be considered as the private property of the incumbents for the time being, who owed no account and utilised the funds in any way they chose. This naturally gave rise to grave abuses. The trustees of the temples also assumed proprietary rights and the endowments which really belonged to the Hindu public had practically passed into private hands. As this is a matter closely affecting the Hindu religion, the Government, in conformity with its declared policy of religious neutrality, could never have intervened and legislated for its control. The Madras Ministry essayed the task by its Hindu Religious Endowment Bill. It established a Hindu Board on the line of the Board of Charities, and placed all the temples—except those which were strictly proprietary and private—directly under its control. It empowered the

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Board to assume the management of these endowments in case of maladministration, to inspect them, and provided for accounting and auditing in all establishments. An important clause which aroused much controversy was that which introduced the *cy pres* doctrine in relation to surplus funds. The Board was authorised to divert the accumulated surplusage in the temples for education in the Hindu religion, sanitation of pilgrim centres, and other objects of allied interest, which would benefit the Hindu community as a whole.

This Bill was revolutionary, in so far, as it was the first attempt that was made to legislate directly in matters affecting the Hindu religion. It would have met with universal opposition if it had originated from the Government or had been passed by official votes. Such an enactment was possible only, because the Council had an elected majority which championed the cause of social reform and was able to explain the Measure to the ignorant populace. The cry of "religion in danger" with which such a Measure would have been greeted if the British Government had introduced it, could not be raised when its originator was himself a Hindu and his supporters were men of approved orthodoxy. The reactionary elements, defeated in the Council, made its amendment or repeal their main plank in the general election ; but the country returned the same Minister and the same Party to power, though with an attenuated majority.

Sufficient has been said already to show that the Reformed Councils take their legislative work seriously and in the interest of the people they represent. It is often said that, as the Councils are elected on a narrow franchise, they represent only certain sections and not the whole people, and therefore, cannot be trusted with responsibility. This was the same with the British Parliament before 1832, but it was never said that the House of Commons could not therefore speak for the people of England or claim to represent them. The

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Reformed Legislatures in India, in all the varied phases of their activity, have shown an equal sense of responsibility towards the people whom they represent and, as the analysis of the legislation given above would show, have in every way tried to discharge that obligation. There is no case of a progressive, social and economic legislation, that has failed to pass through the Councils through want of non-official support. There is clear evidence of the anxiety of non-official Members to press forward with schemes of education, sanitation and social reform. There was, in fact, considerable zeal manifested by the Councillors to liberalise the provisions of existing Acts, in order to associate the rural and urban population with the government of their areas.

The success or failure of the Councils, as Responsible Legislatures, can be judged on 3 grounds :

(i) Have they shown a sense of responsibility in matters relating to administration : especially in relation to finance ?

(ii) Have they truly represented the opinion of the country ?

(iii) Have they, in their activities, kept in view the advancement of the public ?

The work of the Provincial Councils must be submitted to these tests before we can say how far they have been successful in the use of the new opportunities given to them. It is only, if in all these matters they have acted with discretion, prudence and wisdom, and with a view to national progress, that the Councils can be said to have achieved success. We are now in a position to attempt to answer these questions.

In considering the attitude of the Councils, the suspension of the Reforms in Bengal and the Central Provinces, should not conceal from us the work of the other six Provinces during the whole period of the Reforms, and of Bengal and

the Central Provinces themselves during the first and the third Councils. The action of the *Swarajist* combination in Bengal did not mean the break down of the Reforms. It was meant as a demonstrative protest against the insufficiency of the Reforms, the irresponsibility of the Ministers, and other weaknesses on the Executive side of Dyarchy which we pointed out in the preceding chapters. It cannot, however, be too much emphasised that there is a fundamental difference between the Executive and Conciliar—it is impossible to call it parliamentary as it has not full responsibility—side of the Reforms. The Executive side fell far short not only of the expectations of the Indian people but of the intentions of Parliament. The Conciliar side, on the other hand, increased in authority as time went on, by the establishment of conventions and by the compromises which the Executive, needing money and not desirous of certifying it, was forced to enter into with popular representatives. So far as this important aspect of the Reforms is concerned it has proved a striking success.

In the matter of financial responsibility, though the Councils justly insisted on retrenchment and scrutinised with vigilance all expenditure, they were always ready, if the Executive had a strong case, to support taxation. The Bombay memorandum says—* "The main spring of the Legislative Council's action in all financial business has been the desire to avoid responsibility for fresh taxation, but they have faced it where the plain necessity has been established, as for instance, in the increase in Court Fees and Stamps." The United Provinces Government also bears witness to this reasonable and responsible attitude of the Council. The memorandum of that Government (1923) says—"The attitude of the Council towards these measures (of taxation) was hostile but not unreasoned. . . . On the whole the Governor in Council

*1923, p. 67.

does not think that the Legislative Council responded badly to the call made to them to shoulder responsibility. It is true that the new burdens were moderate, that large concessions had been made and that additional revenue was granted in fact, in the first instance, for one year only. But the fact remains that a Legislature, unaccustomed to such a decision and within nine months of dissolution, agreed to place moderate additional burdens upon the tax-payers in order to maintain the Provincial finances on a sound basis." In the Punjab when, at the end of the year, demands were made for excess grants, the Council showed its disapproval, but did not refuse to vote the demands. In Madras, the Ministry and the Council supported additional schemes of taxation though after scrutiny and criticism. It cannot, therefore, be said that the Councils have either shirked their financial responsibilities or refused to face the unpopularity of fresh taxation.

It is, of course, true that the Councils utilised this power with caution and in such a manner as to increase popular authority over the Executive. The Bombay Government noted that "the Legislative Council have learnt to use their wide powers in financial matters to enforce respect for their opinion in extra financial matters. For example, the Budget provision for revision of the pay of village officers was recently rejected by the Legislative Council, not upon its merits, but as a protest against what they considered to be the unsympathetic attitude of Government with regard to the imprisonment of a Member of the Legislative Council."

In matters of law and order also, this sense of responsibility was evident from the beginning. In this, as in the matter of financial responsibility, the Councils have a two-fold function. They must support the Government to maintain law and order, but they are also the constituted guardians of popular rights and therefore have the primary duty of seeing that the Executive does not, in the name of law and order, unnecessarily encroach

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on the rights of the citizens. A popular assembly has therefore to be critical of actions taken in the name of law and order; but also, at the same time, to support the Government in its duty of maintaining public peace. How have the Councils fulfilled this important function? In Madras, as the late Education Minister pointed out in his minute appended to the Madras Government memorandum, (1924)—" the Legislature fully realised its responsibility during critical times. The passing of enactments safeguarding peace and order in the country is the most positive proof of the realisation of the responsibility." The Madras Government itself officially acknowledged this fact. It says in the official memorandum, (1924)—" In regard to the riots in Madras there was some difference of opinion; but in dealing with the other disturbances and demonstrations against authority, the Government received a great measure of support from the Council. Throughout the Malabar rebellion, there was a gratifying disinclination to embarrass the Government. Early in the life of the Council, when the District Magistrate of Malabar, with the approval of the Government, found it necessary to restrain the agitator Yaqub Hasan, leave was obtained to move the adjournment of the Council, to discuss this action, but in the course of the discussion, it became clear that the balance of opinion was opposed to any censure." In other Provinces also, in times of extreme crisis, the Councils have supported Executive action even when they were sceptical of its wisdom and critical of its methods.

The second test by which a legislature could be judged is whether it has represented the genuine opinion of the country. The boycott of the Councils, preached and to a large extent enforced, by the Non-co-operators led to a serious position in the first Councils. In all the Provinces, except Madras, the Councils represented only a small percentage of the electorate and could in no sense claim to speak on behalf of the

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people. But, it is equally true, that in the second and third Councils, the elections were held amidst widespread political and party activity and the Members elected could claim to represent, in a very large measure, the opinion of the electorate. The views of the Members found support in the constituencies and opinion in the electorate was reflected in the Councils. Most of the Members came from the districts they were, elected to represent, and were therefore, in a position to be closely in touch with the views of their electors. Except with regard to the first Councils, it could not be said that the Reformed Legislatures represented no one and spoke only on their own authority.

The third test is how far the Councils tried to improve the conditions of the people, and how far their activities have been directed towards the political, social and economic development of the country. The analysis of provincial legislation given in this chapter will show that, in all Provinces, the Councils took their responsibility in this matter seriously and championed progressive measures for the benefit of the masses. Constant pressure was put on the Executive to introduce measures for the extension of education, sanitation and public health. The Hindu Religious Endowment Act of Madras shows how the Councils have not lacked courage in setting themselves to reform long-established abuses in Hindu society. The real justification of the Indian Councils lies, and must lie, in the attitude which they take in purely social, economic and welfare questions; Government intervention in which is rendered impossible, by the leaden weight of the encrusted traditions of Indian society. In all these matters, the Councils have utilised their authority with courage, caution and foresight. The obstructionist tactics followed for a time in Bengal and the Central Provinces, have obscured the achievement of the Councils in these directions. The *Swarajist* action, as we said before, was a protest against the inadequacy of the

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Reforms, and was largely due to causes, traced in a previous chapter, which had nothing whatever to do with the powers and functions of the Council. But even in these Provinces, after a short suspension, the Councils are working satisfactorily and in accordance with the best traditions established in other Provinces.

Thus Dyarchy in the Provinces, though it did not usher in Responsible Government even in the Transferred departments, and only led to a strengthening of the power of the Governor on the Executive side, has, in the legislative and conciliar aspects, resulted in considerable success. The administrative efficiency of the Provinces could not be said to have suffered; nor could the Services complain of a parliamentary inquisition into their conduct. The Legislative work undertaken has been everywhere of a progressive and liberalising character, and, at least so far as the work in the Councils was concerned, all the fears entertained by the opponents of Indian reform have certainly been falsified.

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CHAPTER VIII

REFORMS IN THE CENTRAL GOVERNMENT

THE working of the Reforms in the Central Government is outside the scope of this work, as the principle of Dyarchy was not introduced in the Cabinet of the Governor-General. The Government of India continued to be responsible solely to the Secretary of State and through him to Parliament. Though its character remained unchanged, it was reformed with a view to associate it more with Indian opinion. The Central Legislature was reconstructed into two Houses, a popularly elected Legislative Assembly and a Council of State meant as a second Chamber. The Assembly consists of 140 members—26 officials, 14 nominated non-officials and 100 elected representatives. All Central Legislation in India must be introduced in the Assembly or in the Council of State and ordinarily must be passed by them. But if the Governor-General certifies that any "Bill is essential for the safety, tranquillity or *interests* of British India," it becomes law on his signature, if it is passed by either of the Houses, or if rejected by both, on his own authority. As the Council of State was constituted specially, in order to prevent a complete dead-lock, the Governor-General would never be forced to resort to the methods of *lit de justice*, of enacting legislation on his own authority. With the consent of one of the Houses, he could promulgate a Law which he certified to be essential, and the only safeguard against arbitrary action, is the provision laid down in sub-section 2 of Section 67 B of the Act, that

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all such preferential Acts shall be laid before the Houses of Parliament and shall not have effect until they have received His Majesty's assent. There has been only one case of actual legislation—besides the Finance Bills thrown out or radically amended by the Assembly—in which this extraordinary power has been used: that of the Princes Protection Act which was thrown out by the Lower House.

In matters affecting finance, the Council of State following the House of Lords, has no voice. The Assembly is vested with wide powers of financial control, except in matters declared by the Act itself to be non-votable. It is provided that the appropriation of revenue relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall *they be open to discussion* by either Chamber at the time when the annual statement is under consideration. (1) Interest in sinking fund charges and loans, (2) the expenditure of which the amount is prescribed by law, (3) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council, (4) salaries of Chief Commissioners and Judicial Commissioners and (5) expenditure classed by the order of the Governor-General as ecclesiastical, political and defence.

Subject to these exceptions, every proposal for expenditure must be submitted to the vote of the Assembly. The only restriction imposed on the free exercise of its discretion is, that if the Governor-General in Council declares that he is satisfied that any demand refused by the Assembly is essential to the discharge of his responsibilities, he can act as if the demand had been actually assented to. This extraordinary power considerably restricts the financial control of the Assembly, but in practice it has been used only on occasions when the Assembly has been deliberately recalcitrant, or the demand refused is essential. All Taxation Bills must come before the Assembly and be passed by it, but the same power, as in other

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acts of legislation, rests with the Executive Government to certify them, in case the Assembly refuses leave to introduce them or fails to pass them, in a form recommended by the Governor-General in Council.

Both the Assembly and Council of State have the power of interpolating and moving resolutions on all questions of importance, except those relating to the foreign relations of the Government, or to its relations with Indian States, or in reference to any matter which is *sub judice*.

The most important characteristic of the Central Government is that it establishes, in a more emphasised form, the anomalous structure of a parliamentary body possessing an elected non-official majority, without ultimate responsibility on any matter. The Act takes for granted the political and financial irresponsibility of the legislatures and provides not only for extraordinary powers in case they should prove recalcitrant, but for the normal continuance of administration in face of whatever it may do. It is given the power to vote, but no responsibility attaches to its use. An irresponsible vote is the most demoralising of political influences. It is the very negation of the idea of parliamentary government, as it encourages members to vote without any consideration as to what the result of that vote would be. This is exactly what the more extreme section of the Legislative Assembly has done. They know well enough, that if they throw out the Finance Bill, the Government would certify it and everything would go on in the normal manner. This knowledge is a direct encouragement to recklessness and certainly not a method of creating a sense of political responsibility either in the electorate or in the Legislature. Every vote on the Finance Bill is now taken as a demonstration, perhaps futile, but certainly spectacular. To throw out the Finance Bill looks like that ultimate sanction of Parliamentary Government, the refusal of supply. The Indian parties can indulge

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in it without inconvenience when they know that not a single department would suffer by it. This is why, that while in matters of legislation, the Nationalist party in the Indian Assembly has not only showed itself to be reasonable, moderate and progressive, in financial matters it has preferred spectacular demonstration to constructive criticism.

But, besides the inherent vice of votes without authority, the Central Legislatures also suffer from the fact that the Government of India whom it seeks to influence, may be to control, is itself not a free agent. The Government of India is only a subordinate branch of the administration in London, and as such, is under the orders of the Secretary of State, who may direct it to take any particular course of action—without reference either to the view of the Governor-General in Council or of the Indian Legislature. It often happens that the Government of India recognises the wisdom of the attitude of the Assembly or at least is prepared to compromise with it on the ground of expediency. But the orders of the Secretary of State, may direct it to follow a contrary course. The recent action of the Whitehall authorities in directing the withdrawal of the Reserve Bank Bill, after the Government of India had come to an agreement in principle with the Opposition in the Assembly, is a case in point. The Reserve Bank Bill was an important Measure arising out of the recommendations of the Hilton Young Commission on Indian currency. The Bill as originally introduced contained provisions which were not acceptable to Indian opinion. But its importance was recognised and a reasonable agreement was reached after prolonged negotiations. When the Bill, as agreed upon by the Government of India and the Nationalist parties, seemed to have entered on smooth waters and to all appearance was going to arrive safely in port, an order was received from the Secretary of State directing the Governor-General in Council not to proceed with it. Sir Basil Blackett, the

Finance Member, is known to have offered his resignation as a result of this arbitrary intervention, and the Assembly provided the strange spectacle of the Nationalist opposition championing the cause of the Government and the official spokesman trying half-heartedly to condemn themselves! So long as the Government of India is treated merely as an agency of the Secretary of State—irreverently alluded to in India as the Grand Moghul at Whitehall—the Legislative Assembly can merely be a body where the vote will be looked upon more as a method of political demonstration than as an instrument of Government, as a weapon and not as a trust which is to be used with a full sense of responsibility as to its consequence.

It should not however, be thought that the Legislative Assembly does not realise in full the authority that is vested in it by the control of finance—limited though it be—and that it does not know how to increase its power and make its influence felt by its judicious use. The Assembly has been able to gain many points in its favour by the indirect use of this power. One important instance may be quoted. When the Government sought to separate railways from general finances and made it an important part of its policy, the Assembly insisted, as the price of its assent to the proposals, that an Indian Member should be appointed to the Railway Board and that the dictation of Whitehall in the purchase of railway stores must stop. On the latter point, the Government could only communicate the view of the Assembly to the Secretary of State, but an assurance was given that, in practice, such interference would not take place in future. The appointment of an Indian Member to the Railway Board was definitely promised, though it has not yet been realised. It is impossible, as long as the Government of India remains subject to Whitehall, to make it in any degree responsible to the Assembly ; but at the same time, it is in this matter that with the lever of

financial control, the Legislative Assembly has more and more enforced respect for its views and compelled the Government to follow it in many important matters.

The position of the Government of India in matters relating to administration and finance, apart from general legislation, is difficult under the Act of 1919. It is placed in the awkward position of being responsible to two masters. It is clear that legally the Government of India is answerable only to the Secretary of State. But even that legal theory can be maintained only on the basis of certification and legislation by the autocratic method of *lit de justice*. As it is, in practice the responsibility of the Government of India to the Central Legislature is a fact which we cannot ignore. It is responsible to the Assembly, not in the sense that if it goes against its wishes it could be removed, or its officers impeached ; but in the more general sense of being compelled to conform to its wishes, for the sake of avoiding both the inconvenience of always having to fight against a hostile majority which has considerable powers, and the odium of having to depend always on extraordinary power for ordinary business. The peculiarity of the present position is, that while the direct authority of the Indian Legislature is limited by the rights of certification, &c., its power of giving trouble is unlimited. Naturally, the Government is desirious of conciliating an opposition which is troublesome and which can make its life unpleasant. This indirect responsibility towards the Legislature, which has grown during the six years of the Reforms, conflicts seriously with its responsibility to the Secretary of State, as was recently seen in the case of the Reserve Bank Bill.

The Montagu-Chelmsford Reforms in criticising the proposal submitted jointly by the Muslim League and the National Congress, expressed in strong language their disapproval of a scheme which gave the Council influence and power, while the

responsibility remained with the Executive. This is what the Report said with regard to that scheme—"It is unsound that the Legislature and the Executive should derive their power from and be responsible to different authorities. As one observer has put it—'the Executive has a mandate for good government from the Secretary of State and the British Parliament, and the Legislature has *ex hypothesi* a mandate from the electorate : the two mandates may not agree and which is to yeild ?' There would certainly be questions on which the mandates did not agree. If the latter gave way, it would become merely the agent of the legislature."* This very same unsound principle against which the authors of the Joint Report directed their destructive criticism has been enshrined in the Central Legislature. That is now fully recognised. The official Report of the Government of India on the "Material and Moral Progress of the country," presented to Parliament in 1924, contains the following observations on the constitutional position resulting from the system of an elected majority without responsibility. "Since the ultimate decision rests with the Governor-General, an authority who, from the point of view of the Legislature, is not only irremovable but also immune from discussion, the elected members can, if they so desire, play the parliamentary game with most of its privileges and none of its penalties. If the Government of India accept the opinion of the elected majority, the responsibility, either for good or for evil, still remains with the Executive. If good results, the elected members are naturally able to claim credit with the country. If the consequences are evil, there is no inducement for them to assume an onus which really rests on the shoulders of the Executive. On the other hand, if the opinion of the elected members is not accepted by the Government, no matter with what weight of argument the officials are fortified in their refusal,

* pp. 143-144.

the only consequence is that the Legislature is affronted and Indian political opinion is presented with a new grievance." *

The constitutional authority which the Assembly has won by the use of its financial and other powers, should not conceal from us this fundamental and primary defect of the Central Legislature. It has demoralised public life in India, by making criticism of Government measures uninstructed and reckless. It has put the authorities into the anomalous position of having to obey the Legislatures or go its way by the use of arbitrary powers. On its political side, it has only accentuated the faults of the Minto-Morley system, and this has been the weakest spot in the Reforms.

But, as in the Provincial Councils, the legislative work of the Assembly and the influence it has exerted on the Executive in national affairs, have been its real justification. During its life of six years, the Assembly has placed to its credit a great deal of legislation, the full value of which could not be appreciated to-day. They may be divided into 3 categories—(1) legislation to establish rights of citizenship : (2) Acts of social progress : and (3) Acts of codification. The record of the Legislative Assembly, with regard to all these matters of vital interest to the nation, is highly creditable. The first Assembly, naturally enough, devoted most of its time to eradicating from the Statute book evidences of subjection, inferiority and repression, which affected the self-respect of the people of India. The most important of these were the Acts abolishing racial distinction in criminal trial and the Measures giving effect to the reports of the Repressive Laws and Press Law Committees. There were provisions in the criminal law of India akin to the privileges of capitulations enjoyed by European nationals in Asiatic and African countries *e. g.* the right of a European to be tried by a jury consisting of a majority of Europeans. Indian public opinion had always con-

* Moral & Material Progress Report, 1924, pp. 53-54.

sidered this an unjust provision which ensured the Eupopean, even under British rule, a different law from that which was administered to the Indian. It was considered a galling humiliation to Indians and an intolerable stigma on India's fair name. An attempt was made, in the time of Lord Ripon, to amend these provisions, but the European community rose up in revolt and threatened to proceed to extreme measures. The Government was forced to yield and the special privileges of European nationals continued to be on the Indian Statute book. Under the changed conditions of to-day, these provisions were considered anomalous, and under pressure from the Legislative Assembly, a Committee was appointed, consisting of Indian and European members, to report on the question. Legislative effect was given to their recommendations, and though the privileges of Europeans have not been totally abolished, the Assembly was able to amend the law in a manner which left it less offensive to Indian sentiment than before.

Another piece of important legislation establishing the rights of Indian citizenship, dealt with the abrogation of the Repressive Laws. The fact of India's political subjection was emphasised by the extraordinary powers which the Executive wielded under the authority of Regulations and Laws which limited personal liberty. A Committee was appointed by the Legislature to report on this question, and, though its recommendations were halting and partial, the legislation which gave effect to it registered a considerable advance in the march of popular freedom. A third measure of importance was the amendment of the Press Law. Before the Reforms, the Executive had armed itself with wide powers to restrict criticism in the Press. The Nationalist newspapers especially suffered greatly, and there was not a single organ of advanced Indian opinion which had not come into conflict with the comprehensive provisions of the Press Act. The Local Governments had the right of not only punishing the Editor of

an offending newspaper, but of demanding a heavy money security and of confiscating the press and machinery. This Law was a special object of resentment, as the section of the public affected by it was the most vocal, as it was also the most influential, among the educated classes. The general public resented it as a humiliation and a bar-sinister to their citizenship. The Assembly lost no time in taking up this question, and a Committee was appointed under pressure from the Legislature, to enquire and report on it. The Committee recognised the necessity of leaving in the hands of the Government, sufficient authority to deal with mischief-mongers, but recommended the liberalisation of the provisions and the repeal of those clauses which were meant to be repressive rather than punitive.

The influence of the Assembly in establishing for the people the rights of citizenship was exerted in other important directions also. It was able to persuade the Army Authorities to undertake important schemes as a step in the direction of national defence. A territorial organisation meant to give military training to Indian youths and to provide for a reserve of officers and men in case of necessity, was started by the Army Command, in order to meet the wishes of the Assembly. A more important scheme, which in course of time must have a profound effect on the political evolution of the country, was the proposal (now being carried into effect) to *Indianise* 8 units of the army by the gradual displacement of European officers by Indians holding the King's Commission. These schemes naturally meant the establishment of a Military College in India and the reservation of facilities for Indian Cadets at Sandhurst. No country can claim its freedom without being able to defend itself effectively, and no citizen can be considered free, who has not the right to defend his freedom from aggression. National freedom is a privilege: national defence is its corre-

sponding duty. The Assembly, in recognising this and in demanding a share in the defence, has established on a firm basis the right of Indians to citizenship, even more than by abrogating racial distinctions and amending repressive laws.

The Central Legislature also interested itself largely in social legislation. The Indian Factories Amendment Act, modernised the law on that important subject along English lines. The Workman's Compensation Act and the Indian Mines Act introduced essential—though still inadequate—safeguards for the protection of workers. The non-official Members have shown, indeed, a most progressive spirit in legislation intended to benefit the poorer classes, and Measures like the Bill introduced by Mr. Chamanlal for weekly payment of labourers, could not get through the Legislature merely because of the opposition of the Government. On the side of social reform, the most important legislation—perhaps the most important single Act that has been passed in India for many hundred years—is the Civil Marriage Act. The history of this Measure is interesting. In the old Legislative Council, leading non-officials brought forward a Measure to validate marriage between different castes in Hindu society. It must be said *en passant*, that according to Hindu religious law, marriages between two members of different castes, of even different sub-castes, was not valid. Progressive men among the Hindus had long recognised the evil effects of this system which fragmentised Hindu society into mutually exclusive groups, each standing entrenched behind immemorial customs against social freedom. The first Bill which was introduced by the Hon.B.N. Basu was thrown out by the official majority in the Council. Another attempt was made by the Hon. V. J. Patel, now Speaker of the Assembly, but that also met with the same fate. In the first Reformed Legislature, Dr. (now Sir) H. S. Gour introduced a similar measure, but it was thrown out by one vote, the majority of elected non-

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officials voting for the reform. In the second Assembly, the Measure received overwhelming support from the Nationalist majority, and in spite of the opposition of officials was passed by the House. Many other non-official bills to promote the cause of necessary social reform, for which educated India has been clamouring, were brought forward in the Assembly on behalf of the Nationalist opposition. Among the most important may be mentioned a Bill to regulate Hindu religious endowments, and a Bill for raising the age of consent for marriage. The last Measure which was introduced in the Assembly, during the summer session of 1927, was opposed by the Government as being too radical, though the proposal was only to raise the marriageable age to 14. But in spite of official opposition, the Bill has been taken up for consideration.

The codifying activities of the Legislature were mostly directed towards criminal procedure. Lord Reading in his speech proroguing the Chambers on the 28th July 1923, stated that "in the Criminal Procedure Amendment Act the Legislature brought to a successful conclusion a task of great magnitude and complexity which had occupied the energies of the craftsmen for nearly a decade."

There is another aspect of the work of the Assembly which demands special attention, and that is, the constant pressure put on the Government to encourage the industrial development of the country. As a result of a resolution of the House, the Government appointed an Industrial Commission with a predominantly Indian personnel, and, on their report, embarked on a policy of discriminating protection. A Tariff Board was set up with powers to enquire into the condition of special industries and to recommend methods for their encouragement. The Steel Protection Act is the most outstanding result of this policy. Again, an Indian Marine Committee was appointed, as a result of a resolution in the

Assembly for enquiring into the possibility of developing Indian shipping, and the Legislatures have been assiduous in pressing the vital need of an Indian Merchant Marine. Again, the Assembly demanded and obtained a promise from the Government that, as far as possible, all stores for Government and railways would be purchased in India. It is clear from these facts, that the economic prosperity and industrial development of India occupied much of the attention of the Reformed Legislatures, and their achievements in this direction have been by no means inconsiderable.

The Assembly has exerted its influence on the administration by every means in its power, by resolutions, questions and motions of adjournment. Among the important resolutions of a political nature, carried in the House, may be mentioned the motion recommending the immediate abolition of the distinction between votable and non-votable items. The demand for a Round Table Conference to settle the Constitution of India, and the resolution separating railway from general finances. The appointment of Committees to advise the various departments of the Government of India has also been a source of influence and was utilised a great deal by the Assembly. There is no doubt that the authority and influence of the Legislatures have increased in scope and become more effective in operation than the authors of the Act had intended.

The increase of its powers and influence being undoubted, the question is naturally asked whether these powers have been used wisely and for the benefit of the people. We have seen, that so far as the popular point of view is concerned, the activities of the Assembly have been directed towards political progress by the establishment of the rights of citizenship and by the partial Indianisation of the civil and military services : towards economic prosperity, by the encouragement of Indian industries : and towards

social reform by enlightened legislation. But have their increased powers of control over the Executive been used wisely ? The answer to this depends on the view-point one takes on the question of Indian political evolution. If the Assembly is considered merely as an advisory body, the use of its powers in forcing the Government to yield on important questions, may be considered, as Anglo-Indian critics have done, an aggressive and unwise act. But, if we look upon the Assembly as a constitutional legislature representing the people, evidently its purpose is to enlarge its functions and authority by the use of every opportunity that presents itself. The electorate expects the Assembly not only to safeguard its existing rights, but to press its claims in every manner, and acquire on behalf of the people, increasing influence over the Government. This, it is submitted, is the only point of view from which a Constitutional Assembly can be judged. It is clear, that both Parliament and the Government of India, accepted this point of view when the idea of entrusting more powers to the Assembly, by the establishment of constitutional convention, was recognized and even encouraged. Lord Reading in the prorogation speech from which we have already quoted, stated the principle thus : " When I examine the position the Legislative Assembly has attained, the use it has made of its opportunities, the effect and dignity with which it conducts its debates, and the broader aspects of its powers on the policy of the Government of India, I cannot but feel that the Assembly at times takes far too narrow and restricted a view of its potentialities and real influence."

If this is the principle by which the attitude of the Assembly is to be judged, it is not possible to criticise as unconstitutional or even aggressive, the spectacular demonstration of the Nationalists in the spring session of 1924. The Nationalist majority at that time threw out the Budget on the principle of grievances before supply. It may have been an

unreal action, on the ground that the Assembly could not withhold supplies, because the Governor-General had the right of certifying it under his emergency powers, but that was all the more reason for a constitutional demonstration of this nature. Parliamentary obstruction may be futile, but it cannot certainly be called unconstitutional. It may be unwise, but on that account it cannot be stigmatised as being a subversive action, especially when it is used for the purpose of demanding a revision of the Constitution. The *Swarajists* have given ample proof, after the first ebullition of their obstructionist enthusiasm, that they know how to utilise the machinery of the Assembly to further the national cause. They have served on Select Committees and co-operated with the Government to get important legislation through. They have even assumed the strange and unfamiliar role of being defenders of the Government of India against the dictation of the Secretary of State in the matter of the Reserve Bank Bill. It is, therefore, merely mistaking the shadow for the substance when the cry is raised that the Nationalist majority in the Assembly did not take their responsibilities seriously and hampered the working of the Government instead of co-operating with it.

The Central Legislature, in spite of the fact that it was given powers without responsibility, and therefore was encouraged in a way to take up an unreasonable position, has been one of the most successful features of the Reform Act. It has been critical of the attitude of the Government: it has on occasions used its powers for purposes of political demonstrations. But no impartial critic, who studies its debates and estimates its work, can fail to come to the conclusion that it has used its powers for the benefit of the people with reasonable regard to the difficulties of the Government and the anomalous position of a non-sovereign Executive. Its legislative work has been far-reaching and comprehensive; its

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influence, in matters of administration, has not been directed either towards a weakening of the Central Government or exercised without consideration for the supreme necessity of maintaining law and order. Its enthusiasm for social reform has been praiseworthy and it has been assiduous in its demand for Indianisation of the services and for a share in national defence. It has effected considerable retrenchment in administration and has continuously impressed on the Government the necessity of economy.

Nor can it be said that it has refused to shoulder the responsibility of unpopular taxation. It is true, that the Assembly reduced the salt tax and forced the Governor-General to have recourse to his extraordinary powers to restore it; but that was not because the popular representatives did not realise the necessity of balancing the budget or of imposing fresh taxation, but solely on the ground that a tax on salt was unjust to the poor man. In the years of extreme financial stringency, the Assembly cheerfully assented to fresh taxation, imposing a heavy burden on the people, merely insisting, as it was in duty bound to do, that effective retrenchment of unnecessary expenditure must precede the demand for fresh taxation. In the light of these facts, it is impossible to deny that the Assembly has used its power with tact, moderation and wisdom, and, if it has assumed powers or extended its authority over grounds which it was not originally meant to cover, it was solely on the strength of its proved capacity to wield more authority without entailing trouble or difficulties for the Government. So far, as the Central Government is concerned, the Reforms, therefore, have achieved a measure of success far in excess of what was hoped by Parliament and even the Authors of the Act.

Chapter IX

THE FUTURE

(1) The Conditions of Enquiry

We have now to turn our attention to the question as to how and in what manner the Government of India Act should be amended to satisfy the Indian claim for greater self-government and fulfil the promise contained in the Declaration of 1917, which was subsequently embodied in the preamble to the Statute of 1919, 'of progressive realisation of responsible government.' It was laid down in the Act that this progress could only be in successive stages. With the appointment of the Simon Commission, announced in Parliament on the 8th of November last, one such step has been definitely reached. The Government of India Act lays down that "at the expiration of 10 years after the passing of the Government of India Act, 1919, the Secretary of State, with the concurrence of both the Houses of Parliament, shall submit for the approval of His Majesty the names of persons to act as a Commission for the purpose of enquiring into the working of the system of government, the growth of education and the development of representative institutions in British India and matters connected therewith, and the Commission shall report as to *whether* and to *what extent* it is desirable to establish the principle of responsible government or to extend, *modify* or *restrict*, the degree of responsible government then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not

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necessary." The Commission therefore has full right to recommend a restriction of the powers now enjoyed by the Legislatures, if it finds that they have been unwisely used. But, from what has been said in the previous chapters, it must be clear that there is no possibility whatever of the Commission finding either that the Reforms have failed or that Indians are incapable of working them or that they have not worked them satisfactorily. The only question that really faces the Commission, and through it the British Public and Parliament, is the line or direction of further advance.

The Declaration of 1917, which the peoples of both countries have accepted, may be said to define the goal. The British people are committed to the policy 'of progressive realisation of responsible government in India as an integral part of the British Empire.' Accepting that as the goal to which we must advance, the immediate problem resolves itself into a definition of the further stage, the second degree, to which India must now be raised. The questions that we shall discuss in the following chapters deal with some of the major issues which will come before the Commission for consideration. They may be divided conveniently under 4 heads: (1) the Government of India, (2) the Provincial Governments, (3) the Services, (4) Franchise.

One preliminary remark, however, must be made. Both Indian public men and British Ministers have recently been announcing that what India wants is a constitution "suited to her own genius." This is a phrase common in India, and those who understand the psychology of the national movement, know that it is a phase of the re-action against the West that is now manifesting itself in every aspect of Indian life. When Indian politicians talk of institutions suited to Indian genius, it means one of two things; either a constitution indigenously developed without outside ideas and influence, or a natural development from purely Indian

institutions. Both of these, if one may be permitted an expressive vulgarism, are pure moonshine. The development of a constitution on a purely Indian basis is an impossibility. Village government, caste *panchayats*, and ancient republics are all undeniable facts, but it is no more possible to go back to them so as to develop an Indian constitution, as it is to make the Ganges flow back to the Himalayas. The problem of an Indian constitution developing naturally out of the institutions that existed in the country previous to the British rule, is equally impossible. The constitution of the Moghul Empire served India well at the time. If the Mahrattas had been left free to grow into an all Indian empire, they might have developed a constitution suited to their policy and to their methods of administration. But no one would, for a moment, consider the possibility of establishing in India a constitution of the kind which Akbar founded or which Sivaji and his successors found serviceable in the 17th and the 18th centuries.

Indian political ideals—and Indian political practice—are largely the reflection of what has grown up in England. The contact between India and England, which people are inclined to consider as superficial and unimportant, except in the political and commercial spheres, is in truth more fundamental and more far-reaching in the realm of ideas. The British political tradition has become a part of the heritage of India and this is the governing fact in the Indian situation. This may be proved by an analysis of the daily attitude of not only the leading politicians, but of any person who takes interest in politics. I shall take a few examples. The greatest complaint that India has, at the present time, and about which we hear every day in the Indian press, is the arrest and deportation of a large number of people without trial or other judicial proceedings. This is characterised as being the *rule of Unlaw*, as against the rule of law. The rule of law,

as a judicial conception, is purely English, but the Indian public has taken it as part and parcel of the conception of public rights in India. The right of certification again has given rise to much bitterness, but this denial of discretion to executive authority, where the legislature has resolved in a particular manner, is again a purely British practice. In fact the whole conception of law, politics and public rights which is now prevalent in India, as a part of the mental equipment of every educated Indian, is wholly derived from English sources. It is not that the conception of liberty did not exist in India. The Indian idea of liberty was the right of social institutions to develop without political interference. The liberty to the Indian meant, until recently, the freedom to follow the customs of his caste, religion and sect, rather than the political ideas which we associate with it. No ancient government, Mohammedan, Hindu, or Buddhist, would have thought of interfering with them. One such interference by the British led to two years of bloodshed in the Mutiny. But that conception of freedom has entirely vanished. People now clamour for social reform, that is the interference of the State in the customs and institutions of the people. Their complaint now is that the British Government does not lend its support to the efforts that are being made to re-order society. And this is but natural. So long as the State was merely a tax-collecting machine, ensuring peace and safety, freedom for the individual could not mean anything else. The fuller life which man required, he was compelled to find in the independent social institutions of caste and trade groups. But the State has long ago ceased to be a mere tax-collecting machine. Modern life makes a superimposed state an impossibility. A state has to educate, legislate, and control a man in a hundred other ways. It is worthy of note that the ancient states did not have to legislate. They had only to administer laws which had either grown up as customs or had

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been laid down by religious leaders as the ideal law. It was not the state that legislated, but private jurists like Jimuta-Vahana or prophets like Mohammed. With the conception of the executive organ of social forces manifesting itself mainly in legislative and educative activities, the ancient conception of liberty, as the right to live under the laws of groups without interference from outside, ceases to have validity.

With this changed conception of the functions of the State, comes the new idea of liberty as the right of man to order his own state, especially as it is an organisation which interferes so much in his life. Liberty now is not freedom from state control but the right to control the state. This, as we have seen, arises from the growth of the functions of executive government. A state which does not educate, which does not enforce sanitation, fight diseases, regulate conditions of work, &c., will not now be considered civilised. This enlargement of functions necessarily involves limitation of individual freedom and group autonomy. The Hindu can no longer be allowed to refuse being vaccinated, on the plea of religious scruples—because small-pox among one section involves danger to the life of others—than he can refuse to pay taxes.

If so much is granted, all the talk about going back to indigenous institutions and developing a constitution without outside influence will be found to be a vain dream. The attitude of English statesmen when they talk of not imposing British ideas on Indian people is equally the result of fallacious thinking. What they mean is that what has proved to be of benefit to England, may not, in the conditions of India, prove to be of benefit to the Indian people. They point out that representative institutions have not been worked with success in any country except in England and in her Colonies, that more than one country has gone back on it, that Asiatic nations which have tried

the experiment are still struggling to find their equilibrium, as in China, unless those institutions have been used merely to disguise autocracies as in Turkey and in Japan. All this is true and unquestionable. But this line of argument ignores two important, and in this case, cardinal facts. The first is that the Indian political tradition during the last one century —the century that saw the development of democratic institutions in England—has been entirely British; the second, which is equally important, is that representative institutions in India are meant to be worked in co-operation with the British and not independently of her. A self-governing India postulates not merely representative institutions, but a British connection, involving British co-operation for some time in the maintenance of essential services, British advice in matters of high policy, and close collaboration in matters of defence. Even, if the claim is accepted that representative institutions are a purely British affair, there is therefore every reason why they should flourish in India as in other British Dominions.

It is not merely *a priori* assumption. The experience of the Minto-Morley Councils and of the Montagu-Chelmsford Reforms of 1919, has clearly proved the fact. The Minto-Morley Reforms may not have registered much of a political advance, but their working showed the aptitude that the Indian mind had for representative institutions. Sir Guy Fleetwood Wilson, who was Finance Member of the Government of India, expressed thus the effect which these Councils made on his mind. "All of a sudden there burst upon India a really representative body which expressed the opinions of educated Indians. It came as a great shock to a great many people, and I do not think, I could possibly have coped with it—I dare say I did not cope with it happily—at any rate I struggled there with it—had it not been that as a private secretary I had had to sit under the gallery of the House of Commons for year after year during the debates. It was

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really a small House of Commons, composed of men with brilliant intellects and men who were extraordinarily hardworking. The mind of an Indian will assimilate knowledge rapidly, its receptive capacity is good, and it is really a serious matter to cross swords with them in debate :"* What has been said of the working of the Legislature under the 1919 Reforms, establishes the same fact. The Indian mind has shown a true appreciation of parliamentary responsibility and democratic institutions, not because there were democratic bodies in ancient India, but because they have, by the prolonged contact with the British and by the penetration of ideas from the schools, become a part of the national character. It is impossible for modern Indians now to go back to the rule of a Chandragupta, Harsha or Akbar, just as much as it is for English people to go back to George III or even William IV. The idea of an Indian Constitution on indigenous models and on principles suited to oriental minds—if there be such—must therefore be abandoned as foolish and illogical.

It is clear on what basis the Indian Constitution should be. It can only be on the basis of responsible government in the English sense; that is, government by an executive responsible to and removable by a parliament consisting of the elected representatives of the nation. That is clearly laid down in the Declaration of 1917 and is embodied in the preamble of the Act. Any attempt to go back on that principle, would be nothing less than a grave betrayal of the trust on which England claims to hold India and a disaster fraught with the gravest consequences for the future.

(2) The Government of India

If the principle of the enquiry into the Constitution of India be the widening of the existing institutions with a view to the progressive realisation of responsible government, then

* *Vide* " The Future Government of India," by Vyasa Rao, p. 9.

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the main problem for which a solution has to be found may be stated in a few words. *To what extent and in what manner can the Government of India be freed from the control of the Secretary of State and made responsible to an Indian Parliament. This is the fundamental question.* The Government of India as we have noticed, is merely a subordinate agency of the British Government which, through the Secretary of State for India, controls the administration of a country many thousands of miles away. The first essential condition of responsible government in India is that the Governor-General in Council should be freed from the leading strings of the Secretary of State. The Secretary of State is said to exercise his authority on behalf of Parliament, but, as we shall show, the parliamentary control over him is merely in name. Of all the Cabinet Ministers, the Secretary for India is the only one whose actions never come in for an effective debate in Parliament. It is a recognized convention, that the affairs of India should be above party politics, and in fact, it has been so ever since the impeachment of Warren Hastings. Since that time an Indian policy has never been a plank in any party's platform. It is true, that the Labour party in its annual conferences passes, generally without discussion, a resolution affirming the right of India to govern itself. But the few months during which a Labour government was in power sufficed to convince India, though not the more conservative section of the British public, that whatever be the professions of Labour statesmen when out of office, they are no more likely to bring their socialist point of view to the consideration of Indian questions than the other traditional parties are. The control of Parliament in the affairs of India must therefore be ruled out as an effective check to the authority of the Secretary of State who governs India by dispatches from Whitehall.

If the Secretary of State is not, in fact, responsible to Parliament, then clearly there is no justification for the

constitutional position taken up that the Government of India is merely an agency which should carry out every direction from Whitehall, without murmur and without question. That principle makes it impossible for the Government of India to take up an honest and straightforward attitude on many questions that are brought up for discussion in the Legislative Assembly. It subordinates the interests of India—so it is suspected with ample evidence in the earlier history of Whitehall dictation—to the economic and trade interests of London. It leads to decisions taken without due appreciation of Indian opinion and conditions. Finally, it reduces the status of the Government of India to that of every day subordination, especially in these days when orders could be conveyed by cable and by radio. The first step in any Reform, therefore, must be the relaxation of the Secretary of State's control over the Government of India.

I should not be understood to be arguing for a complete abolition of the supervisory authority vested in the Secretary of State. It will take considerable time before the Secretary of State for India occupies the same position as the Minister for the Dominions. In matters affecting imperial and foreign policy, defence, and to a less extent, vital changes affecting the Constitution, the Secretary of State, as representing the paramountcy of Parliament, would still have to possess effective authority. But his control over the internal policy of the Indian Government and his interference in the daily affairs of administration must vanish, with the development of responsible government in India.

If the Government is to be made autonomous in this limited sense, it is not, evidently for the purpose of enthroning a Grand Moghul at Delhi instead of at Whitehall. The power of the Secretary of State could be relaxed only to the Legislatures. As Mr. Montagu well put it, the alternative to the government by dispat is government by vote. In those

matters over which the Parliament, through the Secretary of State, resigns control, the Indian Assembly should be given the final power. The problem of Indian reforms is essentially the problem of constituting in India an authority to which the Government of India may be made responsible to the extent that it ceases to be answerable to the Secretary of State.

There is one supremely important fact that stands in the way of this suggestion of making the Government of India, in certain matters, responsible to the Indian Legislature, and that is the complex character of its functions. The Governor-General in Council has two distinct and clearly separable functions. It is in one aspect, the direct government of British India, which covers only two-thirds of the Indian Empire. Besides this, it is also the Central Authority, the Paramount Power which is suzerain over Indian States, and is the Supreme Authority for the whole of India. The fact that these two functions are concentrated in the same hands, should not blind us to their distinct and separable character. It is clear that the Government of India, in its Imperial capacity, *i. e.* as the Paramount Power, cannot be made responsible to a Legislature elected only from British India. That would be handing over the rights that belong to the whole people of India to a part of it.

It is obvious that the people of British India have no more claim to authority over the people of the Indian States than the latter have to authority over them. Clearly, therefore, until such time as it is possible to establish a Parliament representing the people not only of British India but of the Indian States as well, that aspect of the Government which deals with the whole of India must remain outside the control of the Legislature.

This can easily be achieved by bifurcating the functions of the Government. The Governor-General is now his own foreign minister and prime minister. A bifurcation of function, as suggested here, would mean that these two offices should be

separated. The Governor-General in Council, as representing the Paramount Power in his relations with Indian States, with the Indian foreign neighbours, would continue to be the representative of the Crown and the Cabinet responsible only to Parliament. In his capacity as the Chief Governing Agent of British India, he would be responsible to the Indian Legislature.

It may be objected, by superficial critics, that this is merely perpetuating a system of Dyarchy in the Central Government. A moment's consideration will show that this is most emphatically not so. The essence of Dyarchy is that it divides the functions of a Unitary Government, interdependent in every matter, into halves and makes the Governor-General arbitrator in matters of dispute. The division here proposed in the Central Government is merely the separation of two distinct functions, whose union, in the same hands, has been the cause of much confusion. So far as the administration of British India is concerned—and it is only there that Parliament can directly interfere—the administration will be one and unitary under a Prime Minister and Cabinet who would represent all the constitutional powers of the Governor-General in relation to British India. The Central Government, in its capacity as a Paramount Power, will be a distinct authority interested in the affairs of British India only to the same extent as it is now in the affairs of Mysore or Baroda. Without such a differentiation, responsible government is impossible in India, because the British Government has not the right, even if it so wishes, to hand over the suzerain powers which it enjoys over the people of Indian States to the people of British India.

Where these functions are separated and the Government of British India comes to be concerned solely with the people directly under the authority of Britain, the problem of responsibility in the Central Government becomes easy. The

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administration of British India could be made responsible to a British Indian Legislature. The anomaly of the dual control of the Government of India would vanish, and the Secretary of State would retain in his hands, only as much of his authority as is necessary to safeguard Imperial interests, such as lines of communication, naval and military defence, and matters affecting foreign policy. The present accusation that the economic and political interests of the Indian States are being sacrificed for the advancement of British India would also lose its effect. This is, in fact, the only possible solution consistent with the promise contained in the Declaration of 1917, that responsible government was the goal of British policy and the guarantee of independence given to the Indian States by their treaties.

(3) The Provincial Governments

The centre of the whole Reform Act of 1919, as we had emphasised in the earlier part of this study, was the Devolution of Powers to Provincial Governments. Dyarchy in the Provinces was no more and no less than a system of specific devolution. The Montagu-Chelmsford Report in adumbrating this scheme in relation to the Provincial Governments, stated as follows: "The considerations of which we took account in Chapter VI forbid us immediately to hand over complete responsibility. We must proceed therefore by transferring responsibility for certain functions of Government while reserving control over others. *From this starting point we look for a steady approach to the transfer or complete responsibility.*" The goal of Provincial Reforms is stated in the last sentence in the most unequivocal terms. Provincial autonomy, together with the establishment of complete responsible government in the Provinces, was the objective towards which Dyarchy was to serve as a stepping stone. The objective was in no sense new. In the famous dispatch of the Hardinge Government, dated Aug. 25th, 1911, the principle of Provincial

autonomy receives full recognition. "The only possible solution of the difficulty," said the Government of India of which Lord Hardinge was then the head, "would appear to be gradually to give the Provinces a larger measure of self-government until at last India would consist of a number of administrations autonomous in all provincial affairs, with the Government of India above them all and possessing power to interfere in cases of misgovernment but ordinarily restricting their functions to matters of imperial concern." The object was therefore not new. What was new, was the introduction of the principle that, to the extent the Provinces became autonomous, they must be responsible to the elected Legislature.

We have, in the earlier portions of this book, seen how far Dyarchy has been successful in this respect. Its difficulties and troubles have arisen almost solely on account of the unnatural division of functions and the preponderance of authority given to the Reserved subjects. It was devised as a transitional method of familiarising the Councils with political responsibility. In that fundamental object it has been eminently successful, though as a method of administration, it did not achieve the success which its advocates hoped for it. But it should not be forgotten that what was tested *was not whether Dyarchy would work but whether the Councils and the Ministers responsible to them could be trusted with administrative responsibility.* On this latter point there has been no difference of opinion. Though Dyarchy as an administration might have failed, the political capacity of the Councils and the Ministers has been fully vindicated. The problem before the Commission, as well as before the student of Indian politics is—what is the next step?

The answer to that question, in the words of the Joint Report, lies in the transfer of complete responsibility in the Provinces. In the opinion submitted to the Muddiman Committee, Sir William Marris recorded the following opinion :

"Dyarchy is obviously a cumbrous, complex, confused system having no logical basis, rooted in compromise, and defensible only as a transitional expedient. The difficulties and defects inherent in the scheme are quite incurable by the mere alteration of the Act, or the rules. There is no half-way house between the present and a new constitution, concessions which fall short of complete provincial autonomy will secure neither stability nor contentment."

The only possible alternative to the present system in Provincial Government is to abolish the division of the Transferred and Reserved halves, and re-establish a unitary Government removable by and responsible to the Legislature. This means clearly two things: one that the Government of India which still maintains control over the Reserved subjects of the Provinces, must relax it to the same extent as in the Transferred departments, *i.e.* establish Provincial autonomy: secondly, the control which was previously exercised by the Government of India, must be exercised by the Legislatures, *i.e.* establish responsible government.

The Provinces of India can be autonomous only within a limited sphere. The power of the Central Government must remain unimpaired over a vast variety of subjects, in view of India's peculiar social, political and racial structure. Apart even from questions like defence, customs, railway policy, post and telegraphs, it is clear that a good deal of Provincial legislation must be indirectly controlled by the Central Government. Of these, the most important naturally will be Bills affecting social structure, land settlement, &c. Where provincial jealousies are great, and the particularism of nations in formation or already in existence is so keen as in India, the most essential thing, if political unity is to be preserved, is to maintain a powerful Central Government. The demand for Provincial autonomy should not obscure this essential fact.

Within the limits thus laid down, the Provinces may be given full freedom from the control of the Central Government. And to the extent that they are free from the Central Government, they should be made fully responsible to the Legislature. The line of reform lies in this direction. The responsibility in Provincial matters to the Councils must be full and absolute. There is no further justification for the division into Transferred and Reserved halves, with the Governor as a final arbiter of conflicting jurisdiction. This, as we saw,led to an aggrandisement of the power of the Governor to an extent which would have been inconceivable before the Reforms, and to a complete travesty of the principle of Ministerial responsibility, especially in their accountability to the Legislature. What is of importance is that, in any further scheme of reform, the responsiblity of the Ministers to the Legislature should be made absolute and unquestionable, and it should not be possible for any Governor to put forward the claim that the Ministers are only his advisers whose counsel he is at liberty to accept or to disregard.

This essential reform involves another—the abolition of the Reserved half. Much of the trouble in Provincial administration arose out of the unnatural relation that subsisted between the Reserved and Transferred halves. The Transferred half became the appenage of those powerful departments which were still under the control of the non-parliamentary Executive. How this transformation took place we have noticed in another chapter. As long as Finance remains a Reserved subject, and the portfolio of Law is in the hands of an Executive Councillor, the centre of gravity must always shift away from the Ministers. If the new Reforms are not to be an expensive sham and a meaningless mockery of parliamentary institutions, the whole Provincial administration, subject to the advice and control of the Governor, should be transferred to the Ministry. This is what the Indian demand of Provincial autonomy means.

This would mean a large measure of power for the Provincial Legislative Councils. The administration of all the departments will be responsible to them through a Parliamentary Executive, removable directly by a vote of no-confidence or indirectly by a refusal to support important Government proposals. An Executive which has to justify its policy before the Council and whose appropriations may, to a large extent, be cut down, but which is not removable by its vote, strikes at the root of parliamentary government, and unless this is changed, by the abolition of the Reserved half, there can be no real responsibility to the Councils. With this would also go the "Retainer vote," which is a device meant to give the non-parliamentary Executive a minimum number of votes which would be decisive in case there are two parties in the Council. The abolition of the nominated votes, raises other problems besides the responsibility of the Executive, especially the representation of the suppressed and backward classes, which will be dealt with in the section on Franchise. Here, it is sufficient to say, that no system of parliamentary government in the Provinces, meaning thereby the full responsibility of the Executive to an elected Legislature, can co-exist with a system of nominated members, commanding a large and indivisible *bloc* and constituting a guard of janissaries impervious to public opinion, around the Government.

In connection with the constitution of provincial government, there is one subject which the terms of the Parliamentary Commission specially require it to investigate, and that is the desirability of establishing second chambers in the Provinces. The Central Legislature consists at the present time of two Chambers, the Legislative Assembly and the Council of State. The Council of State was created, as its authors declared, as a counterpoise to a popularly elected lower house, which the authorities were afraid might take up

an irresponsible attitude. In the Central Government, which is responsible for the defence and other vital matters concerning the whole of India, such a Chamber, which will by its constitution be cautious and more amenable to official opinion, may be necessary. It is, however, worth while noticing that even in this sphere, its debates have attracted but little attention, and its powers have been utilised by the Government only for the purpose of getting its sanction, as a preliminary, to certifying the Finance Bills and other Legislative Measures, like the Princes Protection Act. No such functions of importance concerning the peace, tranquillity or safety of India, are entrusted to the Provinces, and therefore, even if the Legislative Councils behaved irresponsibly, there is no reason why the Government should be anxious to put them right. When the Legislatures realise that irresponsible actions will only react on themselves, they will be more cautious in their attitude towards Government measures. In fact, the Provincial Legislatures, even under Dyarchy, have shown in spite of extreme political pressure to act otherwise, a spirit of moderation and responsibility which would justify the belief that, if given full responsibility, and made to feel that the result of unwise and immature decisions would only be their own undoing, they will not abuse their powers to a greater extent than legislatures in other countries are prone to. *Prima facie* there is, therefore, no reason to extend the principle of a two-chamber Legislature to the Provinces.

During the course of the last 7 years, during which the Reformed Constitution has been worked, no section of Indian opinion has so far demanded the establishment of a second chamber in the Provinces. On the other hand, Indian opinion has looked upon the proposal with suspicion, and has generally considered it as another device by which the Services desire to entrench themselves in power. The

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experience of the Council of State has only tended to prove this. That body, consisting of Government nominees, landed magnates and representatives elected from constituencies where popular opinion cannot hope to permeate, has not fulfilled either the purpose of the Government to serve as a popular cover for its extraordinary powers, or the proper function of a second chamber as a revisory body. After this experience Indian politicians, and so far as one can judge, even the Indian Government, are not anxious to extend the principle to the Provinces.

The only plausible agreement that could be advanced in favour of a second chamber in the Provinces is, that it would serve as a field for the representation of special interests, like Chambers of Commerce, depressed classes, &c., and could be utilised to provide safeguards for minorities. An upper Chamber, constituted on such a basis of special representation, and minority safeguards, would not clearly carry weight with the public, and could hardly constitute an efficient revisory authority, except in regard to the special interests it is supposed to safeguard. It is not denied that these interests should be provided with adequate safeguards and guarantees, but a second chamber, constituted for the purpose, would be the least effective way of doing it ; firstly, because public opinion will always look upon it as a body set up to defeat the intentions of the popular legislature, and secondly, it would not, through lack of powers in financial matters, carry the same authority with the Government. The proposal for a second chamber in the Provinces therefore, would not find support with any section of the people, and is not justified by political or administrative necessity.

(4) The Services

The problem of the Administrative Services in India covers the whole field of Indian politics and government. A full and

detailed discussion of their organisation, functions and future, would take us outside the scope of this work. We shall confine ourselves here solely to the question of the nature of adjustments that would have to be made in the Services in case a further advance in the direction of self-government is to be made.

No one in India wants a weakening of the Executive power of the essential Services which have done so much to establish a united administration over so vast an area. The power of organisation, the executive efficiency and the methods of administration which the Indian Services represent are among the most valuable assets, and constitute the basis on which every future Government of India has to be raised. The greatest credit is due to the British people in having provided India with this strong and durable administrative foundation. No less is the credit of having developed Provincial Services, mainly Indian in personnel, but deriving its administrative tradition from the all-India Services which were essentially British in character. It is the existence of these two bodies, one thoroughly British in principle and mainly British in personnel, and the other deriving its inspiration from the Superior Services, but manned entirely by Indians, that makes the progressive realisation of self-government possible.

At the same time, it is clear that with the increasing adoption of the methods of parliamentary government, important changes in the function of the Services are inevitable. A bureaucracy, which not only administers but governs, is incompatible with parliamentary government. The position of the Civil Services up to 1921, was essentially that of a governing corporation. So far as the Transferred subjects were concerned, there was in principle, an alteration of character as the Ministers in charge were given the right to initiate policies and control their execution. In practice, as we have noticed, the Services were too powerful for the Ministers,

and parliamentary government in Executive matters was but imperfectly realised even in the Transferred departments. If effective power is to be transferred to Indian hands, it is obvious that the governing functions of the Civil Services must disappear and their control and direction in India should go to the Ministers. It is not desired that the Services should become the sport of political factions or that higher appointments in them should go according to the "spoils" system. We shall be able to suggest methods by which the invasion of politics could be resisted. What is emphasised here, is the necessity of transforming the Civil Services from a partially political corporation into a purely administrative body, as in England and in other parliamentary countries.

At the present time, the Services wield political authority in three ways. The senior members of the Service are in charge of the main subjects on the Reserved side, combining in their office parliamentary and administrative functions. The Governors (of five out of the eight major Provinces) are senior civilian officials; and thirdly, permanent official heads of departments are nominated to every Legislative Council in which they speak and vote as members. It will be conceded that this system goes against the principle of parliamentary government, and was justifiable only on the plea that the experience of officials of tried capacity was essential to train the Indian Councils in the art of administration. Complete responsible government in the Provinces postulates, at least, that official heads would cease to be Members of Council and that the non-parliamentary Executive consisting of Civil Service officials and nominated Indians would vanish. The continuance of nominated permanent officials on the ministerial side would lead to impossible positions; because, with a removable Ministry, the heads of departments, unless they are also to resign their offices with their Ministers, would have to speak in support of

contradictory motions in the Council. The continuance of I.C.S. officials as Executive Councillors would *ex hypothesi* be impossible, as complete responsibility in the Provinces would mean that they should be removable by the Council.

If Ministers are thus made responsible for all departments, and the Civil Service is to be transformed into a purely administrative machinery, then it is clear that the present unnatural relations existing between them must also disappear. Now, in the Transferred departments, the Ministers are supposed to be in control, but they have no authority over the permanent officials. The promotions, transfers and postings are in the hands, nominally, of the Governor, but in practice in the hands of the Chief Secretary who is himself a senior official. Thus the Services continue to be self-governing and the Minister has not authority even over his Secretary. The fact that, in spite of this anamoly, Indian Ministers and European officials have pulled together well, is highly creditable to both. That was possible only because, on the one hand, the Ministers realised the limited authority the Councils possessed in the matter of enforcing their rights ; and on the other, the officials recognised the changed character of the administration, and were accommodating in form though not often in spirit. But with the grant of increased powers for the Councils, the question is bound to come to a crisis, if the Ministers do not possess the ordinary authority of parliamentary heads over their departmental officials. It is in this direction that important changes have to be introduced in the function of the Services. The authority of the Minister in ordinary matters of disciplinary action, in promotions, postings and transfers, must be recognised as final, and the permanent officials made clearly to understand that the responsibility of administration does not lie with them, but with the Councils.

It is, at the same time, only just that the Services should be given effective guarantees against injustice, nepotism and

political corruption. It would be a disaster of the first magnitude, if the Superior Services which have been built up through the efforts of over a century and on which depends the peaceful evolution of self-government, should be made a prey to shifting political considerations and communal and personal interests. This can be effectively guaranteed by continuing the power now vested in the Governor to see that personal injustice is not done to officials on flimsy pretexts. Again, the present right, enjoyed by officials of appealing to the Government of India and the Secretary of State, may be transferred to the Public Services Commission which should be constituted with full powers of disciplinary authority over the Services.

A service so constituted and its legitimate authority and powers effectively guaranteed in the manner suggested above, would be a steel-frame in the right sense of the word for the structure of Parliamentary Government in India. It would mean a considerable diminution of the powers now enjoyed by the Civil Services. That is but inevitable in the change from a bureaucratic to a parliamentary form of government. Only so much of the functions of the Civil Services, as is incompatible with the authority of the Councils, should be thus curtailed. For the rest, the purely administrative authority of the Services should be maintained intact and without interference either from the Ministers or from the Council. This is as much a part of parliamentary government, as the corresponding duty of the Council and the Ministers to maintain in their own hands, the purely political and governmental aspects of administration.

Two other problems, affecting the Services, deserve notice. The first is the question of "Indianisation," and the second, the attempt that is being made as a corollary to it, to introduce the principle of communal representation in the Services. With the introduction of the Montagu-Chelmsford

Reforms, the Government of India accepted the principle that the Public Services of India should be progressively Indianised. Even before 1919, the penetration of the Indian element in all the Superior Services of India was going on steadily. In the Judicial, Educational and other "non-safety" Services, the Indian element had already become very considerable, and their work had met with universal appreciation. The Provincial Services were completely Indian in personnel, and though the controlling authority was vested in the heads of the Superior Services, the efficiency and integrity of the Provincial Services were generally recognised and the importance of their contribution to administrative work was nowhere questioned. When the principle of "increasing association of Indians with every branch of administration" was officially laid down by the Parliamentary Declaration of August 1917, it was understood in India to mean that the Superior Services would be progressively Indianised. Important steps were taken in this direction in connection with the Reforms, the most significant of which was the direct recruitment of Indians for the Indian Civil Service by an open competitive examination in India. It was also laid down that a specific percentage of the Service should be made Indian as soon as possible. Indian self-government, as the British Cabinet and the Indian Government recognised, involves a progressive Indianisation of the Services to the utmost possible extent, without destroying or weakening the principles borrowed from British public life, on which it has been built. The policy of Indianisation, which the Government of India has followed during the last 7 years with caution, has led to no catastrophe. It has not witnessed any sudden fall in administrative efficiency, nor has it diluted the tradition of the Civil Services. The Indian demand therefore is that this policy should be extended, not with a view to displace the British element in the Services, but in order to give greater opportunity to Indians.

There is, however, a serious element of weakness in the demand for a complete Indianisation of the Services, and that is the pressure exercised to introduce the principle of communal representation in recruitment. It goes without saying that, ideally speaking, competence, character and education alone should form the criteria for recruitment to the Public Services. Unfortunately, in the special conditions of Indian political and social structure, this is not wholly possible. The minority communities, especially the Mohammedans, the Sikhs and the Anglo-Indians, claim that their interests in the Public Services, should be specially looked after by nominations to higher appointments not merely on the basis of efficiency, but on the ground of community. It is certainly just that the Public Services should be recruited equally from all communities without distinctions of caste or creed. There is also much to be said for the view that the method of selection by open competitive examination puts a premium on mere book knowledge, while administrative services require other characteristics besides mere intelligence of a specialised type. The claim of the Mohammedans, Sikhs and others, so far as they are based on this, is certainly just. But when this principle of representation in offices is claimed on the basis of a numerical percentage, and is pressed with vigour as part of a political programme, there is serious danger that the ideal of an efficient public service may be subordinated to a method of balancing communal claims. That this is no imaginary danger may be shown from a few cases. In Madras, the Mohammedan population is just over 5 per cent. They claimed immediately after the Minto-Morley Reforms, that their interests should be represented on the High Court Bench. As there was no Mohammedan lawyer of sufficient standing in Madras, a Bengali Mohammedan had to be brought in to satisfy their claim. The non-brahmins of Madras have again been claiming that a certain percentage of appointments in all departments

should be allotted to them, and during the days of their power, they influenced the Government to make appointments to the High Court Bench on a communal basis. There is no doubt that the authorities in making appointments should take the claims of communities into consideration. But any system of recruitment into the highest branches of the Public Services, based on the principle of balancing communal claims, is fraught with the greatest danger.

The progress of Indianisation, therefore, must necessarily be cautious, because any attempt to man the essential Services by officials recruited on a communal basis, would mean the breakdown of the administrative system whose unimpaired strength is the only foundation on which Indian self-government can be built. Subject to this grave limitation, the method of advance lies in progressively Indianising the machinery of Government and subordinating every branch of it to Parliamentary control. Without it no scheme of responsible Government can work, and unless this is attempted, the policy of the Imperial Government of gradually leading India into an autonomous state would be rendered ineffective in the long run.

(5) The Franchise

The problem of representative government is essentially one of finding a proper electorate which is capable of judging the political issues before the country, or at least, of choosing between the opinions of rival candidates. In earlier times, when communications were difficult and the machinery of party government in its modern form was undeveloped, even in democratic countries, the electorate had only to choose some local man of influence whose interests were in most cases theirs or, at least, in whose judgment they had complete confidence. But with the development of well-defined parties choosing candidates, finding funds and controlling elections,

the functions of the electorate have become more complicated. The electorates have now to choose between rival programmes and decide what, in their opinion, is the best for the country. They are called upon to express an opinion on legislation that has already been passed or is under contemplation, on questions of taxation which may affect the price of the cloth which they wear or of the ploughs they use. The interest of the representative, more often nominated by the caucus for his influence in and knowledge of the locality, is not necessarily the same as that of the electors, and hence the electorate has not only to elect but keep a constant watch on the proceedings in parliament. All this necessitates that the electorate should be well-informed, critical and thoroughly alive to the country's interests. To find such an electorate is the main problem in India.

Three main difficulties stand in the way : illiteracy, communal claims and untouchability. The effect of these on finding a wide and representative electorate is different, but cumulatively, they make the present method of Indian representation a most complicated, ineffective and ill-arranged system, to which there is no parallel anywhere else.

Illiteracy in modern times is by itself a great handicap to a parliamentary elector. While it is possible to find illiterates who are well-informed and shrewd, and fully-educated in the best sense of the term, the effect of a general and widespread illiteracy, extending over 90 per cent of the population, would only be to make the masses totally ignorant and impervious to modern ideas. This is no argument against Indian self-government, because, if the British administration of over 100 years could educate only so small a percentage of the population, it is all the greater reason for holding that that Government should be reformed. But, in its immediate effects, it makes a thoroughly democratic electorate a dangerous experiment, for it would hand over

political power to those who could not yet form reasoned opinion on questions affecting the administration. Illiteracy therefore necessarily restricts the franchise. We have, as a result, to accept the principle that in India adult universal suffrage, and all the other machinery of advanced democracy, would not be immediately possible. A restricted franchise, based on a small property, or minimum educational or administrative qualifications, becomes a necessity.

The present electoral qualification in the Provinces, in the popular constituencies, is based on property. In Madras, for example, it is laid down that a person shall be qualified as an elector for the city constituency, who was assessed for property-tax, or tax on companies, or professional-tax, or occupied for not less than 6 months in the previous year, a house in the city for an annual value of not less than Rs. 60, or was assessed to income-tax, or is a retired, pensioned or discharged officer, or non-commissioned officer or soldier of His Majesty's Regular Forces. In the rural constituencies the vote is given to any person who was registered as a *rayatwari pattadar*, *inamdar* or registered lease-holder or holder of land the annual rent value of which is not less than Rs 10/-, or was assessed to income-tax or municipal-tax or is a retired officer or soldier of the Army.

Under the then prevailing conditions of India, there can be no doubt that the electorate established by the Act of 1919 was liberal and reasonably representative. So far as the masses in India continue to be steeped in ignorance, it is impossible to alter this basis so radically as to abolish all property qualification. But it is equally clear that any enlargement of the Reforms must be based on a further liberalisation of the franchise. This is possible, by giving the right of votes to all who have gained electoral experience, by having been registered voters for a fixed period of time in

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the local institutions such as municipalities and local boards, or have been members, for a fixed time, of any registered trade union or co-operative society. As the electoral qualifications in the local-government institutions are popular and democratic, and include as much of the urban and rural population as could be reasonably thought capable of political education, and as the trades union and co-operative societies, expanding and popular bodies, whose membership brings considerable knowledge of affairs, an enlargement of franchise based on these proposals, would tend to liberalise the electorate, without the risk of political power passing into the hands of the uneducated masses. It will, at the same time, give political representation to the labouring classes whose interests may otherwise suffer, by an electoral system based entirely on property qualifications.

A more difficult problem that faces the student of Indian franchise is the question of communal representation. The system of the representation of communities by different electorates arose in India, as a result of the demand of the Mohammedans for the protection of their special interests. The Mohammedan community is numerically only one-third of the total population of India. When the Minto-Morley Reforms were on the anvil, the Mohammedans claimed that the introduction of the principle of popular representation in the Legislatures of India would lead to the sacrifice of their interests, as they were in a numerical minority on an all-India calculation. They claimed that, even in the Punjab and in Bengal where they were in a majority, they were educationally and economically so backward as to require special protection. The Indian leaders did not deny the right of minorities for adequate guarantees, both in representation and in the distribution of power; but the Mohammedan claim was more than this. The Mohammedans insisted that their representatives should not be elected from the common electorate, but

represent merely the Mohammedan community and the Mohammedan interests in the Councils. Lord Morley, though he recognised that communal representation was a principle fraught with the gravest mischief, accepted it as a temporary measure. In that stage of Indian development, there was perhaps nothing inherently wrong in what Lord Morley did. The Government of India was an autocratic authority which took the representatives of the people into consultation. The Minto-Morley Reforms did not pretend to alter the autocratic character of the Constitution and emphasised the fact that the Councils were only consultative. When national interests are in the keeping of autocracy, sitting above and beyond the rivalry of communal interests, no harm could come from the Councillors whom it consulted being representatives of special interests. In such a Council, where the Mohammedans came to put forward the points of view of Mohammedans, and Hindus to put forward Hindu claims, it was but natural that representation should be by special electorates. But the mistake lay in thinking that the Minto-Morely Councils would remain purely consultative bodies. From their very first session, they became parliaments, with limited authority, and it was clear that, in a short space of time, they would claim authority as representing the nation.

In the Montagu-Chelmsford Reforms, this system was perpetuated under pressure from Mohammedan opinion. The Mohammedan community, organised under the banner of the Muslim League, made the acceptance of communal representation the price of their co-operation in the agitation for further reforms. In the Congress that met at Lucknow, the Hindu leaders yielded to the demand, and an agreement, known as the Lucknow Pact, was signed on the basis of Mohammedan representation through separate electorates. The Lucknow agreement, which was in the main accepted by the Montagu-Chelmsford Report and by the Joint Committee, laid

down the percentage of Mohammedan representation in all the Provinces on a combined basis of numerical and "political importance." At the time of the Lucknow Pact, the Indian leaders had no thought of representative parliamentary institutions, and their idea of reform lay mainly in the direction of an enlargement of the Minto-Morley Councils with non-official majorities and more effective power. The Montagu-Chelmsford Reforms changed the whole system. The fundamental principle was the establishment of a semi-parliamentary system in the Provinces. As we have already seen, this involved a considerable devolution of political power to the Councils which, for the first time, became not merely consultative bodies, but parliamentary institutions deciding the issues which affect the whole population. It is clear that the principle of sectional representation cuts at the root of parliamentary government. The central conception of parliament is that it is representative of national interests and voices the opinion of the people. Unless each member of such an assembly feels that he is elected to safeguard the interests of the country and to represent the interests of the people, the collective authority of parliament ceases to exist. What happens now is the very opposite of this. The Legislatures consist of members representing Hindus, Mohammedans, Sikhs and Europeans: none of them represent the country. They all speak for their own communities and are entitled to speak only for them. While they can with justice claim to represent the point of view of various sections, they cannot claim to represent the views of the people as a whole.

Besides, the system of representation by separate electorates has led inevitably to an accentuation of communal feelings. The only method of getting elected from a Hindu constituency is by championing extreme Hindu claims. No Mohammedan who did not pose as a faithful follower of the Prophet and a hater of the idolatrous Hindus, had any chance

of getting elected to the Councils. This is not an *a priori* conclusion. In the general elections that took place in the winter of 1926, the supporters of the Hindu *Maha Sabha* put up candidates against the *Swarajist* party candidates on the platform of orthodox Hinduism. The main plank of the *Maha Sabha* candidates was that they were better Hindus and that the *Swarajists* were non-communal in outlook. The same tendency was evident among the Mohammedan candidates. It is the more fanatical section, that which was imbued with the strongest communal spirit, that gained the ear of the separate electorate. Even those politicians who were known to be lax from the religious point of view, had to publicly profess the orthodox creed to get elected. Thus Hindus, who freely eat beef, had to pose before the electorate as the champions of the cow ; while Mohammedans who were notorious wine-bibbers and were never known to pray, became the clamant supporters of the Mohammedan claim of "No Music before Mosques."

Not only has representation through separate electorates led to bringing the more communal spirited of politicians to the forefront to the exclusion of the more liberal-minded, but, it has also had the effect of introducing religion as a first-class issue in all political questions. Since the representatives to the Assembly and the Councils are elected to champion communal and not national interests, and the communal electorate ensures the election of only those who are extreme champions of communal claims and more ; since the record of the representatives will be judged by their constituencies, not by what they do in the interests of the country, but by what they do in the interests of the community, it naturally follows that every question of importance will be viewed, not from the public point of view, but from the special advantage that would accrue to the community from it.

There is another deplorable result that has followed

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from this system. Since the Mohammedans have secured representation through special electorates, the other minorities have not been slow to follow their example. The Sikhs in the Punjab, and the Indian Christians in Madras have demanded and obtained the same privilege. This principle could in fact be indefinitely extended.

Now, what is the basis on which this claim is worked? In the case of Mohammedans it is said that they are an important minority which should be protected. While in an all-India sense this is a claim of some validity, from the point of view of the Provinces, it is of little value. In the two major Provinces of the Punjab and Bengal, the Mohammedans are in a majority. Surely then they could not want separate representation to protect themselves in Provinces where they are in a majority, as the claim is made on the basis of their being in a minority. In Madras they are only 6 per cent of the population, in the United Provinces 13 per cent, and in Bombay only about 12 per cent. In the Provinces where they are in such ineffective minority, separate representation is clearly no effective guarantee. In the Provinces where they are in a majority, separate representation is clearly unnecessary.

So far the proportion of seats has been decided not strictly on the basis of numbers. The Mohammedan claim has been that the numerical strength of their representation should be on the basis of their political importance. On this basis, the 13 per cent of Mussalmans in the United Provinces were to receive 35 per cent of seats, while the Mohammedan majorities in Bengal and in the Punjab were converted into minorities. The claim now made is that the disproportionate distinction of seats in the United Provinces, Madras and Bombay, must be retained on the basis of the political importance of the Mohammedans, while in the Punjab and Bengal, they should receive majorities propor-

tionate to the numerical strength. If the basis of political importance is taken, curious situations arise both in the Punjab and in Bengal. In the Punjab, there is the numerically small but politically very highly important community of Sikhs who supply a very large portion of the Indian army. Once the principle of representation on the basis of political importance is recognised, their claim to a larger percentage of elected seats, than their numbers warrant, could not be contested. The Mohammedan majority of the Punjab vanishes, if the Sikhs are given seats commensurate with their importance. In Bengal also the case is the same. The landowners of Bengal are mainly Hindu. The Mohammedan population in East Bengal is poor and uneducated, as compared to their Hindu brethren in West Bengal. Then there are those interests which are specially represented in the Councils. If representation is granted to the Hindu community commensurate with its political importance, the Mohammedan majority in Bengal is immediately converted into a minority, because the landholders (5 seats), the Calcutta University (1 seat), the Bengal National Chamber of Commerce (2 seats), the Bengal *Marwari* Association, the Bengal *Mahajan Sabha* (1 seat each) are practically Hindu constituencies. Thus the separate representation of minorities, on the basis of political importance, really works against the Mohammedans by depriving them of the majority to which they are entitled in the Punjab and in Bengal. In fact, it is maintained merely in the interest of the Mohammedans of the United Provinces, who form only 13 per cent of the population, but receive 35 per cent of representation.

No one denies that adequate guarantees should be inserted into the Indian Constitution to see that minorities do not suffer. But separate representation is the most ineffective method of doing it. It gives no guarantee in Provinces where the community is in a minority and makes

it powerless where it is in a majority. Other methods have to be devised combining an effective guarantee for minorities with the principle of national representation. This would be possible only by a common electorate with reserved seats, with judicial guarantees for the free performance of religious and social rights recognised by law. The principle of the reservation of seats has been in operation in Madras where it has proved extremely successful. The non-brahmin communities of Madras, though they form 98 per cent of the population, asked for communal representation, on the ground that the social and sacredotal authority of the Brahmins gave them an advantage which they turned to political advantage. Instead of introducing communal representation, a minimum number of seats was reserved for them on the common electorate. This insured a proper representation of non-brahmins, while it maintained the general principle of electing those who had the confidence of the people. The result has been that after the first election, the non-brahmins themselves found out that extreme and uncompromising communal claims were of no use with the electorate, the result being that communal passions have practically died out in the Province. So far as the Mohammedans are concerned, in the Provinces where they are in a majority, the problem of separate representation does not really arise. So also in Bombay, Madras, the Central Provinces, Bihar and Orissa, their representation does not give rise to difficulties ; because neither numerically, politically nor economically, do they possess any special importance which may not be guaranteed by a reservation of seats higher in proportion to that which they are numerically entitled. The crux of the problem lies in the United Provinces where, though they are in a minority of 13 per cent, their economic and political importance is far in excess of their numbers. A considerable percentage of the larger landholders in Oudh are Mohammedans. It is but just

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that representations in this Province should be such as to guarantee them the maintenance of this influence. This could be done by reserving a third of the seats to which they are entitled by the present arrangement.

The question of Mohammedan representation in the Legislative Assembly is more difficult. The Mohammedan representatives, in whatever way elected, are bound to remain in a perpetual minority. The guarantees which the minorities require, cannot therefore be in the method of representation. They must be sought in other constitutional provisions. One such, which has been made by some of the leaders of the Muslim community, is the proposal that no legislation should be enacted by the Assembly which two-thirds of the elected members of a particular community claim to affect their religion. This, in effect, gives the veto on legislative proposals to the majority of a single community. Besides, it would be impossible to think of any serious legislative proposal which does not affect the religious practices of either Hindus or Mussalmans. If the prescribed majority of a community consider essential legislation to affect their interests adversely, which is the authority to adjudicate on the matter ? This is ill-conceived, unworkable, and from every point of view unsatisfactory.

The solution of this problem seems to my mind, to lie in submitting the matter to a supreme court which will be vested with authority to decide on all matters of constitutional importance. It may be laid down in the constitution that the Assembly is incompetent to deal with matters affecting recognised religious dogmas of any community. It should be left to the court to decide what are recognised religious dogmas. Another proposal which may be submitted is that the procedure followed by the British Parliament under Lord Oxford's Parliament Act, in deciding what is a money Bill, may be followed here. A

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Special Committee of both Houses, with the Speaker as Chairman, and the community concerned having two-thirds of the seats, may be authorised to declare, whenever any case arises, where it is a piece of legislation affecting religious beliefs. With constitutional guarantees of this kind incorporated in the Act itself, the just suspicions of the Mussalman minority, that their interests would suffer under a scheme of increased self-government, may be adequately met.

There remains the question of the representation of the untouchable classes. Untouchability has become, at the present time, merely a question of ceremonial pollut on which does not affect civil rights. Theoretically, the 60 million untouchables, if they have the requisite qualifications, have equal right with the rest of the population in matters of franchise. But the hold of the Hindu caste system is so rigid and the weight of it so heavy, and the economic handicaps so great, that ordinarily, their interests would not find representation in the Councils. What should be remembered, in this connection, is that the problem is not social or religious but economic, for even the untouchables who have turned Christians would find it impossible to get their interests represented. Representation must therefore take not the form of providing seats for certain depressed classes, but in giving adequate importance in the Central and Provincial Legislatures to the proletarian classes. This would include unorganised urban labourers, agricultural labourers, undeveloped tribes, and others who may be called the unpropertied workers. At the present time, these classes are represented by nominated members, a system which, as we have shown, cuts at the root of legislative responsibility, without even safeguarding, in any way, the interests of the classes represented or giving them opportunities of political education. The suggestion here proposed, is that separate electorates should be formed for these classes for a period of 10 years,

with the essential provision that the candidates to those seats may be members of any community. The necessary thing is that the depressed classes should awake to their rights and the power of the vote is the easiest method of making them conscious of their power.

It may be objected that, in this proposal, we are advocating representation by separate electorates which we have condemned in the case of Mussalmans. That is certainly true, but a moment's consideration would show that, at least for the next 10 years, the evil effects of separate representation would not show itself in the case of the depressed classes. The main objection we raised, in the case of Mohammedan separate representation, was that it led to the extreme communalists of both camps getting elected from their group constituencies. In the case of the depressed classes, it is clear that at least for 10 years to come, there will be very few men of their own communities who would represent them in the Council. The provision, that members of other communities may stand for the depressed classes seats, will bring home to those classes the value of the power vested in them, as the members of the higher communities soliciting their vote will be dependent on their favours and have to champion their claims.

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CONCLUSION

WE have now finished our examination of the main features of the working of the Montagu-Chelmsford Constitution and the broad lines on which it should be enlarged. The Simon Commission who, in the words of French political usage, came out merely as *rapporteurs*, have only the duty of presenting an accurate picture to Parliament and suggest the line of action that a proper study of these facts may indicate to be appropriate. It is more than likely that the Commission may report in favour of granting India a Constitution which could, in course of time, without frequent parliamentary enquiries and legislative changes, be expanded into that of a self-governing Dominion. Such a course would clearly be justified from the results achieved by the Montagu Act. Our analysis has shown, that though the scheme itself may have failed in important respects, the capacity of Indians to work it with due appreciation of Imperial and Indian responsibility, has been established beyond doubt. It has certainly educated the electorate, established healthy relationship between the people and the Government, and at least in the Provincial Councils, proved the capacity of Indians to carry on administration even under the most difficult circumstances. It is certainly no fault of the Indian Ministers of the Indian Legislatures, that the Devolution Rules gave the Governors more authority than they posseseed before, and made the Finance Members the dictators alike of the Reserved as of the Transferred half. These

were unseen possibilities latent in the Act, which showed themselves only when the system was put to the test. The fact that these faults made themselves more and more evident as time went on, does not in any way take away from the credit of the Councils or of the Ministers. On the other hand, it only adds increased weight to the argument that, even under these adverse circumstances, the Councils and their leaders have been able to achieve so much in the domains of legislation and of administrative progress.

Whatever the recommendations made, the future Constitution must be based on principles which unite the past with the future and not separate them. Those features of our political past, on which we can build safely and securely, are the traditions of the Rule of Law and Parliamentary Government which we have inherited from the British connection, the Centralised Administration which descends through ages from Chandra Gupta Maurya to Aurangzeb, Wellesley and Curzon, and the limited countervailing influence of autonomous local Governments so strongly represented at the present time by the Indian States. Any Constitution that we may build or may be built for us by the British Parliament, must be, if it is to be successful or lasting, built within this frame work.

It has often been said that India is not a nation or a country, but a continent inhabited by many nations. Whatever be the truth in that statement, no one can deny that powerful unifying forces are at work, which compel even the most exclusive Indian Ruling Princes to accept, in principle, the idea of collective association with the Government of India. Of all such unifying forces, a proper Constitution with a strong Central authority, maintained with the help of Britain, will be the strongest. The unification of India through political institutions, a common political language and an administrative machinery, is the greatest movement set on foot by the

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British contact with this country. And it is but historically right that any proposals that are made, to or by the Commission, should keep in view this fundamental but unseen objective of British rule in India.

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